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Government
Publication



F-1

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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Official Report of Debates (Hansard)

Thursday 23 April 1992

Journal des débats (Hansard)

Le jeudi 23 avril 1992

**Standing committee on
finance and economic affairs**

Organization

**Comité permanent des finances
et des affaires économiques**

Organisation



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 23 April 1992

The committee met at 1536 in committee room 1.

ELECTION OF CHAIR

Clerk of the Committee (Mr Todd Decker): Honourable members, it is my duty to call upon you to elect one of your own as the Chair of the committee. Are there any nominations for the position?

Mr Kimble Sutherland (Oxford): I nominate Ron Hansen.

Clerk of the Committee: Are there any other nominations? If not, I declare nominations closed and Mr Hansen acclaimed as Chair of the committee.

ELECTION OF VICE-CHAIR

The Chair (Mr Ron Hansen): I guess the next order of business is the election of a Vice-Chair. Do I hear any nominations for Vice-Chair?

Mr Johnson: I nominate Kimble Sutherland as Vice-Chair.

The Chair: Everybody in agreement? Anybody opposed? Congratulations, Mr Sutherland.

BUSINESS SUBCOMMITTEE

The Chair: I guess the other order of business is the establishment of a subcommittee on committee business. Does anybody want to make the motion for the subcommittee representatives from the three parties?

Mr Norman W. Sterling (Carleton): Gary Carr will be our representative on the subcommittee.

The Chair: Okay. Thank you, Mr Sterling.

Mr Gerry Phillips (Scarborough-Agincourt): I'll nominate Ms Caplan.

The Chair: Okay, Ms Caplan from the Liberals and automatically, Mr Sutherland, you'll be the subcommittee chair.

ORGANIZATION

The Chair: The next item on the committee's agenda, item 4 on the list you have before you, Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments, the honourable Shelley Wark-Martyn's bill. That will be coming before the committee, I believe, on May 7.

Mr Sterling: It is before the committee now, as I understand it. I have not had any communication from the minister at this point. Neither I nor any members of my caucus have any indication from the minister that she's ready to proceed at this time. It was sort of taken off the table unilaterally by the government. Therefore, it may be her desire to go ahead on May 7 but I think it would be proper courtesy for her to forward the changes she may have to

the bill, to give us a little bit of warning before we schedule a time for her.

The Chair: Maybe the parliamentary assistant can wind up.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): I was just wondering if Mr Sterling and any members of the Liberal caucus had had an opportunity to be briefed on the changes—obviously not, or you wouldn't be suggesting what you are.

Mr Sterling: Who's the critic for Revenue? It used to be Yvonne O'Neill but that's changed. I'm sure we'll work it out.

Mr Phillips: There's a file here. We're fairly interchangeable; we all know.

The Chair: Have all members of the committee received a copy of Bill 150?

Mr Sterling: We don't seem to have received amendments. Historically, for those members who weren't on the committee before, we were going to go into this in February. On the Thursday before the Monday when we were to start the hearings the minister indicated that she didn't want to proceed and unilaterally withdrew and said, "We're not going to go ahead." That was done without consultation at that time and I voiced my objection at that time.

So I'm going to be very obstinate this time in terms of letting the minister run the committee. The committee should make the decision on the basis of information. We don't have any information in front of us now and therefore I suggest, Mr Chairman, we postpone this until we have some kind of communication from the minister as to what her amendments might be.

1540

Mr Johnson: I can say that at this time I would like to think that between now and May 7 you would have an opportunity to see the new package as it is, with those amendments. I think the reason it was withdrawn or taken out of the committee was because there were some concerns with the particular legislation as it was drafted. So there have been some changes and that is why it's being brought back now.

Mr Phillips: The member for Carleton recalled to the committee the facts as they are. Both himself and myself had some significant reservations when the bill was introduced. We raised them and we were told that they were unfounded and that the only way to proceed was the government's way.

As the member indicated, we were all set. On a Monday and Tuesday, I recall the hearings were set. Then, on the Thursday before the hearing, we were told that somehow they were being pulled. My problem is that without

knowing what those amendments are and having a chance to discuss them with my caucus, there's a risk, as we head into that session—they may be substantive. They may be things that we want, that I have to take to my caucus to get some feedback on. So I would have appreciated having been—even before today's meeting—briefed to go over with our caucus.

The Chair: Mr Johnson, is it a possibility that the members of the opposition parties can be briefed on this?

Mr Johnson: I think that's most appropriate. I wonder, how much time in advance of bringing this before the committee would the members of the opposition like?

Mr Sterling: It's not only the members of the committee who have to be informed, but the reason that we ask for this to be sent out to committee is so that people who were interested in the bill might have an opportunity to make a presentation. As I understand it, these amendments have not been made public. There's been no statement. I would think that the minister might want to make a statement in the Legislature and say, "These are my proposed amendments." Let the people out in the public have a little bit of time with it—I'm not saying an extensive period of time, but that again depends on the extent of the amendments—so that groups who have expressed an interest will have the opportunity to come.

I think we were going to have public hearings in February. Perhaps the clerk can help us out here. Were there groups that were going to come in front of the committee in February, and how many were there?

Clerk of the Committee: I didn't bring with me the schedule that existed at that time, but there were a number of groups. There were the United Steelworkers of America, the Algoma salaried employees, three or four ministries of government—Labour, Revenue, Treasury and Economics—I'm not sure of the fourth. I believe there was a fourth.

Mr Sterling: I have received a communication from a workers' co-op in the Kitchener area which I am sure would want to appear as well. In order to give those people the proper opportunity, I think that there has to be some time between—

The Chair: Can I go to Mr Sutherland for a minute?

Mr Sutherland: I think the sense was that you would start that process on May 7, I believe, or whatever. We had two days of hearings scheduled with groups to come in. I think there would still be the sense that we'd continue on with two days of hearings of that. I'm wondering if maybe—

Mr Sterling: We don't want them in here complaining about a section that has already been changed by the minister.

Mr Sutherland: Right.

Mr Sterling: We may not have to spend two more days on it.

Mr Sutherland: Okay, but maybe what I'm suggesting is that the committee meet next Thursday morning for a few minutes to decide where things are at, as to whether

those concerns you've raised so far have been addressed adequately enough that we could proceed on May 7.

Mr Sterling: Perhaps what we can do, in fairness to the groups that have already indicated an interest in this, is wait until they have an opportunity to see the amendments. Once the minister produces the amendments, they're mailed to these various groups, or they're communicated. Ask the groups how much time they need in order to prepare a response or to prepare their public presentation. If they can make it by May 7, we'll do it by May 7. If they can't, if the minister doesn't produce them in public until May 6, then we can't. We can't sit on May 7.

The Chair: So you're saying the amendments in with the package that goes out to these groups so they can see what the amendments are.

Mr Sterling: Yes. Then we have to have an opportunity, as Mr Phillips says, to discuss them.

Mr Phillips: One of the problems I think is that the reference from the Legislature gave us two days of hearings on this thing, if my memory is correct. What I want to avoid is being trapped with scheduling the two days of hearings before we've seen the content of the amendments, because I have a feeling that, if it broadens it to what we actually originally thought should be in there, there could be a series of employee groups that will want to come before the committee. I'm just saying that to reference this for two days, and May 7 is one, the opposition doesn't leave itself much leeway for—

Mr Sutherland: I think too a couple of groups that might have been originally on that list may not want to participate, just given that there are a couple of the Algoma groups that were on there. My understanding is that they didn't really use this procedure; they came up with a different procedure, so they may not still want to be here. That may open up some room for a couple of other groups.

The only problem with Norm's approach is that if you go and ask them, "How long do you need?" and you wait, they come back, it could be June before we decide to have the hearings. Then of course, if there are amendments, I assume there will have to be votes at the committee stage here on those amendments, or something of that nature.

While we want to make sure we get input from the groups participating and from the public and they can have some time to comment, I don't think we want to be having those presentations in June either. The sooner we can get on with this and move forward, the better, because I'm sure there'll be other issues the committee will probably want to deal with as well.

The Chair: Okay. Ms Caplan.

Mr Sterling: That's not our problem.

The Chair: Excuse me. Ms Caplan.

Mrs Caplan: I think I was going to follow along the line of thought Mr Sterling just interjected. This is a very significant piece of legislation. As the Revenue critic, one of the things I've just heard today is that there are a number of potentially significant changes in this bill, changes that could be significant enough to warrant really a lot

more thought and discussion, or significant changes that may have satisfied a lot of concerns.

I think today's discussion is premature. I think there has to be an opportunity for all of us to be fully briefed, to have a chance to discuss it with our caucus and then determine when we are ready to come and have hearings at committee. It seems to me that until we've been briefed and seen what those changes are, it's unreasonable for the committee to expect us to make a determination as to timing.

The Chair: Maybe Mr Johnson can wind up with a little more clarification here.

Mr Johnson: I don't know if I can wind up with more clarification, but I'd like to think we could come to some agreement with regard to the time we can expect this to come before the committee, and I'd like to think—

Mr Sterling: You're not providing us with any information.

Mr Johnson: Absolutely, and I understand that. If it's possible to get an adequate briefing from the ministry staff and to have this widely circulated to the necessary parties before May 7, could May 7 not be a tentative date?

Mr Sterling: Why don't we discuss this after you've taken the correct steps? The minister has treated us, as members of the Legislature, really in a way she should not have. We didn't make a big stink about it at the time. We said, "Okay, do you want to meet on Monday?" She unilaterally closed down the schedule of this committee without even coming in front of the committee and explaining what it was all about. I received no communication from the minister as to what the amendments were or what were not. We are talking about this Never Never Land. Why don't we just postpone the discussion of this until the minister shows her hand?

1550

Mr Sutherland: I was just going to suggest again, as I suggested earlier, that maybe we can meet next week in the morning and hopefully be able to answer those questions. Maybe if the minister is prepared at that time to come forward with the amendments, that will give you time between then and the following week, which is May 7, to go to your caucuses and discuss the issue, based on what's there, and whether you feel more time is needed. If that's the case, I guess that would be worked out between the House leaders as to whether there would be more time, but you could still get prepared to try at least to move forward with the dates of having hearings. If you felt there was more there, then that would be fine.

I understand there were concerns expressed about our not dealing with it when we originally had it scheduled, but I think the minister has attempted to respond to some concerns and is coming forward with some amendments, which I believe both of the opposition parties were calling for in the first place. I don't think we can be too upset about the fact that it was pulled and wasn't discussed there pending the fact that amendments were coming forward.

Mrs Caplan: I think you missed the point, and I'd like to be helpful. The point is you obviously have information that we don't have. In order for us to determine

how we are going to proceed, we would really like to be fully briefed by the minister. What might be helpful is if you could agree and we could agree to perhaps have that briefing and set a time for the briefing now if we could. Maybe it could be next Thursday morning at the normal committee meeting when the minister would come in and brief all the committee members, and we would all have the information. We could take that back and discuss it with our caucuses and then come back and decide when we're prepared to proceed with the bill. I think that's a reasonable approach.

Mr Sutherland: I don't think there's a problem with the minister coming before this committee and letting it know the intent of what the amendments are going for. I think she has the full intent of doing that at some point. It's a question of when you want to schedule that and then there is the question of, when she comes forward and does the briefing, your going back to your caucus and then deciding whether we are going to proceed or not. That does delay the process. If you want more time, that can be worked out.

Mrs Caplan: With due respect, you're missing the point. We can't, in advance, tell you how we're going to feel about it until we have the information. You're asking the questions in the wrong order. First you have to give the information. Then we have to have a chance to discuss it. Then we can decide how we're going to proceed. It's unreasonable for you to say, "Tell us now how you want to proceed and then we'll give you the information." It just doesn't work that way.

Mr Sterling: I don't know if there is some tie-up with the budget in this. She may not want to come in front of the committee before the budget is laid out next Thursday afternoon. I don't know that.

If that's not the case, I think what Mrs Caplan has suggested is probably a good and logical thing. Next week we could not only have the minister come and talk about the amendments, but have some of her officials here so that members of the committee can ask them not only about the amendments but about the other parts of the bill. I had a briefing on this bill some time ago, before second reading, and the predecessor to Mrs Caplan as the Revenue critic had a briefing on the bill. However, members of the committee have not had that same advantage in terms of dealing with the thing. If you're really anxious to get it going, we're open to the idea that the minister come here next week with her officials, maybe before we start into it two or three weeks later; we won't have to be bothered doing that in the morning and we can get right into the public hearings.

Mr Johnson: Maybe there's been a misunderstanding here. I was under the impression that the minister was going to come on May 7 with a package so that all of us on this committee could have a package, and she was going to give a brief statement. We were all going to have the packages made available to us.

At this point in time I believe there's still some information that even I'm not familiar with, that has yet to come to me or to any of the other members of the commit-

tee. If it's not appropriate that the minister come in on May 7, give everyone a package, make a presentation and then we take it from there, if that's not appropriate use of committee time, then we'll have to do something else, I guess.

Mr Sterling: It's quite appropriate that the minister come and explain the bill to the committee. The problem is that we have the impression that the amendments are not small amendments, that there are some significant changes, because if they were only small amendments we would have gone ahead with the hearings in February. We're of the impression that there's been some rethinking. Quite frankly, I congratulate the minister on her rethinking and going ahead and, "Let's try to work this thing out." But if that's the case, then the proper pacing of legislation, in order to get the best piece of legislation, is to allow the people who are then going to comment to have it up front.

If you want to wait until May 7 to have the minister and the amendments here, that's fine and dandy, but I can tell you, if they are substantial, then you're going to have trouble with us in going ahead with public hearings for a period of time thereafter. All we're trying to do is help you and advance the process.

Mr Johnson: It's much appreciated. Recognize that some of these amendments are the result of some of the concerns raised by members opposite in the Legislature. I think that is certainly a step—I agree with Mr Sterling—in the right direction. We've made some amendments prior to bringing this before the committee.

Mr David Christopherson (Hamilton Centre): I think the opposition members are trying to be helpful. I think we're all just trying to get the horse in front of the cart. That's my sense. I'm not seeing any kind of games or any such thing. The PA is indicating at this point that he's prepared to commit the minister to coming on May 7. I'm hearing some opposition members say, "If that's the first we see of the amendments, and they're significant, we may not be prepared to start right into public hearings that afternoon or commit to when we will start them." I can appreciate that. I think if I were sitting over there, I'd ask for the same kind of consideration.

Could I suggest, assuming that the PA and our whip are comfortable with it, that we acknowledge right now that May 7 will be scheduled for the minister to appear and make whatever presentation she's prepared to make? If during the interim she's comfortable sending out a package of information and providing staff to give briefings to the caucuses before then, to try to facilitate a time frame, so be it. If we come here and meet next Thursday and there's new information about how we might facilitate opposition members' needs for information, so be it. But for today, if we agree that we'll have the minister come in on May 7, that request will go out and we'll take it from there. You have our assurance that we understand the concerns you're raising. I think they're very valid, as I think all my colleagues believe they are. We'll try to accommodate them in as timely a fashion as possible to allow all of us to get on with this.

The Chair: I guess the biggest thing I can see here is that all people agree that the day the minister comes is not

one day of the hearings, that there are still two days left. That was the main area I could see.

Mr Christopherson: May 7 is not necessarily the day.

Mr Sterling: You raised another issue, Mr Chairman, and that was that originally two days were set out for hearings on this bill, which had nothing to do with the content of the bill and nothing to do with the interest in the content of the bill. It had nothing to do with anything save and except that the House leaders were negotiating before the Christmas break how many days committees could sit. The limitation that was put on this committee at that time, as I understand it from our House leader, was two days, based on the fact that we were sitting on other matters. So the two days are not carved in stone, as far as my House leader or we are concerned. If 30 parties come up and say they want to speak on Bill 150, we may need 10 days of hearings. As far as we're concerned, so be it.

Mrs Caplan: I think we've gotten to a point where there can be some agreement. I think I heard that there's agreement that if the minister is available on the 7th, we will convene then, have the briefing and then make a determination after that as to when we're prepared to have the hearings and also, at that point in time, how extensive the hearings will have to be. I think Mr Sterling makes a good point, that the length of time for the hearings was based on previous information and may have to be reconsidered.

The other point is that if the minister is prepared to come to the committee before that, I think members of the opposition would be more than willing to accommodate that—next week, if that's possible. So certainly if the parliamentary assistant could let the Chair know and if it's possible to arrange a meeting where we can have the information and be fully briefed by the minister, we can get on with making the decisions that will put this bill to public hearings and also give our caucuses the opportunity to have the kind of information they will need to be able to see this bill move forward.

1600

The Chair: The clerk just noted to me Mr Morin is ready to move on his bill, Bill 154, so there can be that buffer zone and that period in between of looking at the amendments and so on. So we can wind up dealing with his bill in between. It's a suggestion from the clerk.

Mr Johnson: I will certainly convey to the minister the information Mrs Caplan has mentioned. If it's within her means to meet earlier, I'll notify the Chair, who can notify the clerk, who can see if we can arrange some meeting prior to May 7. Otherwise, I think the minister is prepared at this point in time to come before the committee on May 7.

Mr Brad Ward (Brantford): Just a point of clarification: I thought I heard the opposition members not so much request that the minister come to two meetings, but that the information be made available prior to May 7 if possible. I don't think the minister has to come and brief us. It could be ministry staff, with the assistance of the PA, and then on May 7 the minister could give the formal briefing or the formal presentation.

The Chair: Is that acceptable, information ahead of time and ministry staff and then the minister?

Interjection: That would be great.

Mr Christopherson: What it does is it underscores what Mrs Caplan was saying, that we will schedule to meet here next Thursday, which is a regular sitting day of this committee—

Mr Sutherland: In the morning only.

Mr Christopherson: In the morning only, yes, if we've got something scheduled, and we'll cancel it if there's nothing there to fill. If there's anything we can do to move this thing along, we'll slot it in and do it.

Mr Sterling: No, I think that leads to a bit of a problem in dealing with Bill 154. I think we should just say that on May 7, the minister comes. The more information she provides before that time, the sooner we can get on with things in terms of dealing with them in committee.

If we want to give Mr Morin an opportunity to have our committee deal with his bill, I think we should, with respect to his rights, deal with that bill next Thursday morning and give him his opportunity. I don't think we can allow the minister to knock him off the schedule at her leisure. I think we have to make that decision now. The minister hasn't provided us with the information we need. I think we have to deal with Mr Morin now that we have made that decision.

The Chair: I was just talking to the clerk. There are groups that want to appear before the committee on Bill 154 that possibly would not be prepared to appear Thursday either. There's that possibility there. Mr Morin would be able to wind up making his presentation before the committee and then the other people who want to make presentations could make them after that.

Mr Sutherland: What are the other groups that want to present on Mr Morin's bill?

Mr Sterling: I think there are the people who represent the people who cash the cheques.

Mr Sutherland: I was aware of them. Who are the other organizations?

The Chair: Bankers' association and cheque cashers.

Clerk of the Committee: There are cheque-cashing businesses, the Canadian Bankers Association, and I think the Consumers' Association of Canada, or of Ontario.

Mr Sterling: Why don't we try to at least have some of those, and then ask Mr Morin as well if he wants some time during next Thursday morning?

The Chair: So we got (a) and (b) done. I think the other part, (c), will follow after we get through, not having to put a schedule on there—"Unresolved issues concerning budget secrecy, the budget-making process and the pre-budget consultation process"—unless members of the committee need some research done ahead of time so we don't have any lag time. Again, has anybody any suggestions on this or should we just let it follow?

Mr Christopherson: I don't have a complete package to offer and I'm open to anything. I suggest the Treasurer would probably be interested in coming. He's the one who

initiated this and I've said all along, and I think it has been shown, he's very serious about changing the process and he really wants the input of this group. We've done as much as we can. I don't know that we've provided earth-shattering suggestions, but we've been there. I think Floyd would probably want an opportunity to come back after the budget is released and his schedule permits, to come in and talk about what has happened this time, how it was different from the time before and initiate some discussion about how we might make further changes for next time. Maybe that's a good starting point for us.

Mr Sutherland: We'd like him to respond to what the committee—we've had some brief discussions, came up with a few ideas and we sent him Hansard copies of what we had discussed. So if he's prepared to make any comments—there were a few suggestions that have come forward as well.

Mr Sterling: I think we should schedule the minimum number, if possible. That's fine and dandy with me. We have two other pieces of business as far as I can see which would take priority, but as soon as we get an opportunity let's ask him in.

The Chair: I just wondered, on item (c), whether there was anybody on the committee who had some ideas and would like to have some research done before the—

Mr Sterling: The only question I have is whether this research has already been done. Have any other jurisdictions changed their process with regard to budget secrecy?

The Chair: This is why I was throwing the question out whether anybody had any suggestions in this particular area, so we don't come to a meeting like this one today and say, "Okay, now we have to take a look at the research that takes another two weeks before we get this information back."

Mr Sterling: I don't know of any other jurisdiction that has dealt with this issue and changed the rules, and how it has changed those rules, if anyone has.

The Chair: You're talking about the other provinces that have changed some of their budget process?

Mr Sterling: There are other parliamentary institutions. I assume that it's—

Mr Sutherland: Is there any update from the report we got from research? We were given a report from research.

The Chair: I wasn't Chair at that time, so I'm going to let the researcher here wind up.

Ms Elaine Campbell (Research Officer): We had a presentation in February from Irene Ip from the C. D. Howe Institute and she spoke about several provinces. The committee expressed interest in what was happening in Nova Scotia so I have obtained some information from the Department of Finance in Nova Scotia. We'll have a paper ready for next week on what changes have occurred there within the last two years.

The Chair: Thank you. Is there any other business of this committee?

Mr Sterling: Mr Chairman, I move that we do not get special pins for this committee.

Mr Christopherson: I just want you to know that's in conflict with what Margaret wants.

The Chair: I see a lot of people wearing blue ribbons. They're acceptable at these committee hearings with a safety pin. This committee is adjourned for the day.

The committee adjourned at 1609.

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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 30 April 1992

Standing committee on finance and economic affairs

Government Cheque Cashing Act,
1992

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Le jeudi 30 avril 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur l'encaissement
de chèques du gouvernement



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7410 or 325-7411.

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Effective with the opening of the Second Session of the 35th Parliament, committee reports and pages are numbered according to session, rather than calendar year as before.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 30 April 1992

The committee met at 1013 in committee room 1.

GOVERNMENT CHEQUE CASHING ACT, 1992 LOI DE 1992 SUR L'ENCAISSEMENT DE CHÈQUES DU GOUVERNEMENT

Consideration of Bill 154, An Act to prohibit the Charging of Fees for the Cashing of Government Cheques / Loi interdisant de demander des droits pour l'encaissement de chèques du gouvernement.

The Chair (Mr Ron Hansen): We'll open hearings this morning in the standing committee on finance and economic affairs on Bill 154, An Act to prohibit the Charging of Fees for the Cashing of Government Cheques, which is a private member's bill. Mr Morin, please begin.

Mr Gilles E. Morin (Carleton East): Thank you very much, Mr Chairman. I want to let you know that I will be speaking for approximately 22 minutes.

We're here to study Bill 154, the Government Cheque Cashing Act, which prohibits charging fees for cashing a government cheque. I am pleased to have this opportunity to explain why this bill is important. I would like to demonstrate why it is essential that we seek a solution to a problem that has been identified, documented and debated by those involved with recipients of social assistance, yet this problem has never been addressed in a satisfactory manner. This is why it persists. I sincerely hope these hearings will yield positive, concrete results.

The cheque-cashing issue has been of great interest to me for a number of years. I have long been aware of the difficult circumstances that accompany poverty: restricted opportunities, hunger, limited access to goods and services that guarantee a better head start in life, discrimination, dependency, lack of autonomy and loss of dignity. These are some of the signs of poverty.

Being poor is not an advantage in our society. It confers a stigma upon persons who do not have the financial means to keep up with the rest of society. I suppose one can argue over the meaning of poverty and, to a certain degree, it may be considered relative to a given society. However, let's not be mistaken. Real poverty, as defined by the lack of basic necessities, is very present in our society.

I am not referring to a person's incapacity to keep up with current trends or to maintain the social standards of North American society. Poor Canadians suffer from want. In the midst of affluence they want for the basic necessities of life, such as regular and nutritious meals, proper clothing, safe housing and freedom from constant insecurity. These are not only minimal Canadian standards of living; they are dictated by what should be considered common standards of decency.

Poverty has a devastating impact not only on an individual but also on society. It drains society's resources and wastes its human potential. As poverty becomes an even

greater burden, society is less capable of managing the present and preparing the future. This is not a problem for the uncaring society which values ends over means, but I believe Canadian society is a caring one.

The evolution of the welfare state in Canada illustrates well the belief that the community is partially responsible for the wellbeing of its less fortunate members. Accordingly, this belief was translated into social assistance programs. Programs were designed to bring relief—not the life of luxury, but simply relief to the needy—in the hope that eventually recipients of social assistance would be able to pull away from their difficulties.

This is where the notion of the poverty line comes into play. The poverty line helps to establish a certain level of subsistence below which a person should not fall. The financial aid a person receives should maintain that person at the poverty line. Programs such as family benefits and a general welfare assistance plan should ensure that basic necessities are provided to every person. The sad reality is that they do not always accomplish this.

This leads us back to a statement I made a few moments ago. I was referring to the difficult circumstances that accompany poverty. Bill 154 addresses one of the difficulties faced by the poor. It aims at reducing to the greatest extent possible the discrimination encountered by the poor in the course of their financial transactions. It wishes to alleviate, if not eradicate, the hardships caused by this discrimination.

Financial transactions are an almost natural part of our existence. We cannot avoid them. In order to get on with our lives we must on a regular basis deal with financial institutions. The poor may not have much money, but what little they do possess usually entails some dealings with financial institutions.

I have said before that cashing a cheque was not a difficult task for people like ourselves. Establishing our identity never becomes an issue. We possess an array of identity cards and sufficient income to ensure our access to a variety of financial services. If we dread at all having to deal with a financial institution, it is not for reasons of intimidation.

Recipients of social assistance, on the other hand, are not so fortunate. They encounter discrimination right from the start, based upon the fact that they are poor. They must face prejudices or preconceived notions, such as, "The poor cannot be trusted," or "The poor have a greater tendency to commit fraud." Some people assume, "If this person is poor, it's because he or she is lazy, doesn't want to work." When that hurdle is passed and communication is established, the recipient must provide ID. This is a reasonable request. However, a low-income person does not always possess two or three adequate forms of identification, and when you're poor, regulations tend to be applied in a more

stringent manner. Individuals who are not branch customers are simply turned away.

Many financial institutions are reluctant to handle government cheques because of the potential loss due to fraud. Yet how much more fraud is committed by credit card holders or simply by common thieves? Is it not discriminatory to infer that recipients of social assistance are more fraudulent than other members of society? Is it not discriminatory to single out a group of persons and say, "We will refuse them services because they are not reliable customers"?

1020

Some have said that Bill 154 itself discriminates against recipients of social assistance by singling out their source of income. My reply, and I have said this before, is that the source of a person's income is important, as it is one of the main causes of discrimination by established financial institutions.

The recipients of social assistance are stigmatized because of their financial situation. It restricts their access to regular financial services. This is why they turn to alternative means to cash their cheques.

This bill addresses and hopes to alleviate this type of discrimination faced by the poor. So to state that Bill 154 is discriminatory by invoking specious arguments simply evades the issue. Nor is this bill any more paternalistic than any other piece of social legislation. Social policy, as such, is paternalistic. There is no way of getting around this. Either we leave individuals to fend for themselves regardless of the consequences, or we take certain measures in order to help people meet basic needs.

The object of our social legislation is to try to increase the degree of independence of the needy and hopefully to see them become fully independent. This bill aims to ensure that low-income persons benefit from mainstream traditional financial services and are not, because of discrimination, forced to resort to cheque-cashing outlets or any other business that charges fees for cashing government cheques.

As for the argument that this bill would restrict much-needed competition for the banking industry, it would take more than that to effectively begin to challenge the monopoly enjoyed by financial institutions in Canada. Banks are not threatened at all by cheque-cashing businesses who have, as a matter of fact, taken on a clientele they prefer not to serve. The simple fact is that for many low-income persons a visit to a local bank can be a daunting event, to be avoided if possible, even if it means paying fees to cash a government cheque. This is why recipients turn to alternative sources for cheque-cashing purposes.

Yes, cheque-cashing outlets have filled a need unmet by banks, but no, they do not offer the best alternative to recipients of social assistance. As a matter of fact, cheque-cashing businesses have become associated pejoratively with the clientele they serve. This, in essence, singles out low-income persons more cruelly than anything else, because it implies that a low-income person whose main source of income is a government cheque is not good enough or worthy of proper service in a regular financial institution. It implies the segregation of people and services in our society based upon the source of an

individual's income. This is condoning, in effect, one type of financial service for the well-off and another for the needy. Can it be more discriminatory? This bothers me. I do not believe that we, as a society, should be comfortable with such inequity.

I think this is an important point. The arguments brought forth in opposition to Bill 154 invoke such notions as consumer freedom, the right to choice and equality with other consumers. In practical terms they would serve only to maintain the status quo, and the status quo is the reality described above. Ontario would continue to sanction discrimination based upon one's source of income or lack of income.

I would like to examine more closely some of these concepts, especially the notion of equality. Equality of rights is an attractive slogan. The mere mention of equality can be enough to gather support for one's cause. Of course, people will say, everyone should enjoy equality of rights. It's a basic assumption in our society.

We live in a democratic society and democracy implies equality of rights and treatment. What is easily forgotten in the midst of these appeals to equality is the indisputable fact that, as consumers, the poor and the well-off are not equals. They do not enjoy the same purchasing power, the same privileges, nor the same degree of influence as a consumer group. As a consequence, their freedom as consumers is greatly affected. I will explain this.

Freedom of choice has been linked to the concept of equality. If every person is considered equal, then of course they are all entitled, equally, to choose freely. The poor, like the wealthy, should enjoy the right to choose freely the type of financial services they wish to receive. This is the gist of the argument. But there's just one drawback to this assertion. The right to choose implies the capacity to carry out that choice.

This means that if a low-income person chooses to deal with a financial institution instead of an alternative party for cheque-cashing purposes, then he or she should be able to carry out that choice. He should be able to walk into a bank and receive service. In reality, lack of access to regular financial institutions automatically guarantees that the low-income person's right to choose is impeded, because he may choose to deal with a bank and still be refused service.

It is misleading, therefore, to invoke the right to choose as some sacred principle, based upon an inaccurate view of equality, without any regard to the actual exercise of that right. To assert the existence of a right without ensuring its exercise is, in effect, to deny that right. It's like acquiring money that has lost all of its value and can't be spent. So this bill is not depriving low-income persons of any right to choose. They will remain free to seek service in a cheque-cashing business if they wish to do so. The only difference is that they will no longer be charged a fee for cashing their cheques. If an agreement is reached between representatives of financial institutions and the provincial government, low-income persons will finally enjoy access to better financial services like the rest of society does. They will no longer be marginalized because of their source of income.

I imagine it's now evident that this bill has a number of objectives. The first, clearly, is to prohibit charging fees for cashing government cheques. This is a morally and socially unacceptable practice. We cannot allow low-income recipients of government cheques to lose a percentage of their income, especially when it represents a vital minimum.

The government of Quebec took the initiative in 1981 and prohibited charging fees for cashing government cheques. Money Mart challenged article 251 of the Consumer Protection Act, which prohibits charging fees, and lost its case. Two appeals of that decision were rejected. The Supreme Court upheld the constitutionality of article 251, as well as the validity of its aim, which is the protection of low-income consumers. I will return to this question of consumer protection in a moment.

Now obviously, the prohibition of fees only resolves part of the cheque-cashing problem. The bill's second objective addresses the greater issue of the poor's lack of accessibility to regular financial services. This lack of access causes them to turn to alternative means of cheque-cashing. It is based on the financial institution's mistrust of low-income recipients of government cheques and on the fear of fraud involving government cheques. Not that this fear is groundless, but as I have indicated earlier, there is no greater prevalence of fraud among low-income persons than among the rest of the population.

1030

I believe that an agreement can be reached between the government of Ontario and the Canadian Bankers Association, along with the credit unions and the caisses populaires, which would facilitate cheque-cashing. Such an agreement should specify acceptable types of identification cards, as well as set out the conditions for reimbursement of fraudulent cheques by the government. It could also contain provisions regarding the opening of an account. The question of accessibility to better financial services can only be resolved if financial institutions and the government cooperate. This bill wants to encourage the government and financial institutions to face their social and moral obligations towards the poor.

This leads us to a third objective which will help meet the second: improving our social assistance programs, making them more responsive to the needs of recipients, streamlining the system of distribution of social assistance. This too will require cooperation between ministries and financial institutions. If, for example, the electronic transfer of funds were instituted, or the direct deposit program expanded, the cheque-cashing problem would cease to exist. Low-income persons would be dealing with financial institutions like you and I do. They would possess a withdrawal card that would enable them to withdraw money from an automatic teller without having to go through the hassle of establishing their identity.

I would add that reorganizing the system of social assistance should make it more efficient in terms of administration and costs. Simply reducing incidences of fraud will prove less costly to the system while ensuring that dollars intended for the needy get into their hands. The reduction of fraud is another objective which can be met through an improvement in the way social programs function and

funds are delivered. This objective, again, requires the co-operation of financial institutions.

I would like to return now to the issue of consumer protection, because in my view this issue concerns the protection of low-income consumers. It concerns the protection of their limited income. This is why I referred my bill to the Ministry of Consumer and Commercial Relations, because I feel that the solution starts there. First, we must ensure that those cheques which provide a basic minimum are not subjected to any fees. The Ministry of Consumer and Commercial Relations must take that initiative.

We are not just talking about welfare cheques. There is a whole range of cheques issued by the federal, provincial and municipal governments that supplement already meagre incomes, such as the old age pension or disability pensions. These are not, generally speaking, considered welfare cheques; however, they do represent low incomes, incomes that barely keep those recipients above the poverty line. These incomes require as much protection as a family benefits cheque or a general welfare cheque. As consumers, low-income persons are entitled to protection from certain commercial practices. It is the responsibility and within the jurisdiction of the Ministry of Consumer and Commercial Affairs to protect consumers.

Second, in order to meet the objectives set out earlier, other ministries must become involved in this issue and they already are. Meetings have been held involving the Ministry of Community and Social Services, the Ministry of Treasury and Economics and the Ministry of Financial Institutions.

The Ministry of Community and Social Services has met with representatives of groups which lobby on behalf of the poor. All of this is important, but what I wish to stress is that at some point we must stop talking and start doing something. Decisions must be made. There have been many consultations, many reports. We are now familiar with the issue. We know what the solutions are. All that is needed is the will to decide, to say: "This is what must be done. This is how we intend to resolve the problem." There is no reason to delay.

I have a list of witnesses and I hope you will hear them. You should also meet with the Canadian Bankers Association; I met with them. I met with the credit unions and I met with the caisses populaires of Ontario. These are all witnesses. I felt, through my conversation with them, that they are willing to cooperate, so I hope this committee will act as a *trait d'union*, as a link, bring them together and come to a decision. It has been going on for too long.

Are there any questions?

The Chair: Are we going to have questions of Mr Morin at the very end?

Mr David Christopherson (Hamilton Centre): Yes. Let's hear some of the other submissions.

Mr Morin: Later on, then. Fine. Perfect. Sure.

ONTARIO COALITION AGAINST POVERTY

The Chair: The next group is the Ontario Coalition Against Poverty. Mr John Clarke, come forward please. Welcome to the standing committee on finance and economic

affairs. You may proceed. We need some time at the end to ask questions on behalf of the group you're representing.

Mr John Clarke: Certainly. I'll be fairly brief.

I would like to begin by making the point, particularly to the government members, that this issue of cheque-cashing outlets and dealing with the problem is something that frankly should be a housekeeping issue for the NDP government. I believe it's something that should be dealt with immediately. It's so much a part of the mandate of dealing with problems of poverty that your government sought in opposition, when it was campaigning for office, that I think there's a real responsibility to move on this and to specifically throw some weight behind Bill 154.

In our opinion, there is no question that a very major problem with regard to cheque cashing exists in Ontario. The Daily Bread Food Bank will be appearing shortly, but I would just like to point out one of the observations that it makes in the work it has been doing around this issue; that is, a survey of people using food banks indicates that 26% or 27% of people have gone to a cheque-cashing outlet during the course of the last year. That's an enormous problem. That's an enormous amount of money that people desperately need and are not able to utilize, and I think in your deliberations you need to keep that in mind.

When you look at operations like Money Mart and other such operations and you see large lineups of obviously needy people going in there to hand over an unacceptable portion of their incomes, when you see people having to give their thumbprints for purposes of identification in places like that, I think an understandable feeling of outrage begins to emerge.

At the same time, I think it also needs to be pointed out that the numbers of people going to cheque-cashing outlets constitute in many ways only the tip of the iceberg in terms of this problem.

When I was involved with the London Union of Unemployed Workers, I well remember that we endeavoured to challenge the opening of Money Mart in our community. We gave out leaflets to people going in there. I remember a conversation I had with a young man who pointed out to me that while he agreed it was unacceptable to have to hand over this portion of his cheque to Money Mart, he had in fact, for some three or four years, been handing over a larger portion of his cheque to his landlord to provide exactly the same kind of service. So there is, behind the cheque-cashing outlets, an even greater problem and that's something that I think you need to keep in mind.

1040

When it comes to people having to turn to cheque-cashing facilities, it seems to us that there are three major factors that are at play. One is the fact that people live on desperately inadequate incomes. Again borrowing from Daily Bread, they point out that among people using the food banks, after rent has been paid and an amount of money spent that Agriculture Canada says is necessary to provide a nutritious food basket for the month, the average user of a food bank would have \$1.52 left over to spend on everything else. It's hardly surprising then that people desperately need to cash cheques and desperately need to find

a means to cut through whatever barriers are put in their way and get money, even at the cost of turning over a portion to people like Money Mart. There is for the poor absolutely no room to manoeuvre when the cheque arrives.

The other glaring problem that has come to our attention in the work we've done is the phenomenon of the post-dating of cheques, by which I mean that the cheque is mailed a few days before the end of the month and received a few days before the end of the month but is dated for the first of the month. That's true of family benefits cheques and it's true of a great number of municipal welfare cheques. My understanding is that where municipalities have removed the post-dating of cheques the business of operations like Money Mart has been cut into very severely.

But the even greater problem that causes the situation, as Mr Morin has pointed out, is the question of banks and their practices with regard to low-income people, with regard to the problems people have with identification and other such problems.

I think it is noteworthy that cheque-cashing outlets have been notoriously unsuccessful in the Maritimes, and that's probably for a very good reason. It is that in that part of the country there has been chronic poverty and very widespread poverty for very much longer than in other places, and the resistance of banks and other such institutions to cashing cheques is not there in the same way it is in Ontario. Opening up something like Money Mart in Halifax would prove to be extremely unsuccessful precisely for that reason. Therefore it reveals very clearly that if the will is there on the part of banking institutions, the need for cheque-cashing services is wiped out at a stroke.

I think it is necessary for the government to move in the direction of ensuring that banks deal fairly with people, that banks cease to discriminate against people and that acceptable means of identification—acceptable to the banks and acceptable to recipients of social assistance—are provided.

One idea that has been floated is the idea of the Ministry of Transportation and Communications issuing an identification comparable to a driver's licence which does not require the taking of a driving test so people could very readily provide that as an acceptable means of identification.

I think, however, while it is necessary to look at those measures, the concrete thrust of Bill 154, the outlawing of the practice of cashing cheques for financial gain, is something that has to be supported and has to be enacted if we are going to be successful, if we are going to clean up this very serious social problem, this very serious attack on the rights of poor people.

I also note that 154 provides a grace period so you don't just simply immediately come down and stop the practice without providing a period of time in which problems around identification and the receptiveness of financial institutions to dealing with social assistance cheques can be worked out reasonably. I believe if the will is there on the part of the Ontario Legislature, arrangements with financial institutions that are suitable are quite possible to arrange.

In terms of opposition to the proposals around the elimination of cheque-cashing outlets, I have heard a

number of arguments advanced, but perhaps the most glaring and ridiculous of all is the notion that to enact such a measure would remove freedom of choice for poor people. I don't think we are dealing here with any legitimate consideration of freedom of choice for poor people. What I think in fact we are dealing with is a situation where hungry and desperate people are being held over a barrel and are being taken advantage of. I think if in any comparable way rich people were being pressured to hand over a portion of their income, there would be an outcry and the matter would be dealt with very expeditiously by the Ontario Legislature.

I think, therefore, that I want to conclude by making an appeal to all of you on this committee to ensure that Bill 154 is dealt with and dealt with very seriously. While I'm not an accomplished parliamentarian, I know that private member's bills are notoriously susceptible to dying before they make it through to become legislation. I think this bill needs to be an exception to that rule. I think it is absolutely necessary for this committee to throw its weight behind it, to recognize that it is a vital measure. It is a measure that's very simple, very straightforward and needs to be taken. Bill 154 needs desperately to become law in the province of Ontario.

The Chair: Okay, I think Mr Sutherland had a question.

Mr Kimble Sutherland (Oxford): I know that Ontario family benefits has started direct deposit, but I believe right now it's still an optional thing as to whether those who are receiving want to have direct deposit. That certainly seems, at least on the surface, to be a more effective way and one way of getting around the system of having to go to the Money Mart and having fees charged. I was wondering what your organization and you feel about that right now when it is optional, if it were to be that all cheques would just be mandatory direct deposit.

Mr Clarke: Certainly I would support the notion of the encouraging of a direct-deposit system that is voluntary. I think it is a valuable part of an approach to the question of dealing with this problem. I can't support, and our coalition can't support, the notion that cheques should be automatically directly deposited without any freedom of choice on the part of recipients of social assistance. People have a number of concerns around that, one of which is that bank accounts are generally garnisheeable but government cheques or social assistance cheques are not. People have concerns about the ability of creditors to get at them. I think beyond that it is simply a question that people should have the right to make those arrangements that seem best for them. Compulsory direct deposit, no, but certainly the working out of a system that is as attractive as possible and that as many people as possible would want to turn to is something, I think, to be supportive of.

Mr Sutherland: So you're saying there's a dignity issue with it and an empowerment issue with it.

Mr Clarke: I think that would be true.

Mr Jim Wiseman (Durham West): I have just a couple of questions, and this stems from what I don't know enough about: the number of people who actually are

using the service to cash government cheques. I would like to know that number because I think it's an important thing to take a look at.

But basically what we're talking about here is the absence of equality for the disadvantaged who are receiving cheques, and the whole system of access to the monetary system as it exists. So we have to ask ourselves why that happened and what the solutions are to the problem. It seems to me there's a whole demand system put into place that the Money Marts seem to be fulfilling, given the absence or the withdrawal of the banks and other institutions, and my concern is about potentially creating a problem.

I have to tell you, I'm totally sympathetic with everything M. Morin said and everything you have said. I am totally sympathetic. But I'm wondering, if we passed this, whether we might not be creating even more hardship by making it impossible for individuals to cash a cheque anywhere. I think that's an issue I need to have dealt with. There was an editorial in the paper about the difficulty that recipients of welfare in Montreal are having because the cheque-cashing places will not cash them. Let's face it: they're in the business for a profit. They need to make a profit to pay their workers, to pay whatever interest rates they're paying on capital they are borrowing.

1050

I'm just a little worried because you described earlier about the landlord who used to have control and power over the recipients because they couldn't cash the cheque. This is a well-known percentage and people have used it. It is regulated to the extent that the books have to be audited and people have to be accountable. There are systems in place so that fraud cannot take place within the cheque-cashing institution. If they decide they're not going to cash the cheques and we haven't dealt with all of the other problems we've heard listed here this morning, then where do they go?

Do they wander around for weeks with cheques in their hands that they can't cash? Do they go to the landlord or the local loan shark or something and sign over? Then they're at their mercy and those people can charge you an even higher fee. While I'm totally sympathetic to what you're saying and while I don't like these cheques to have service fees paid on them because I know how much people need the money, can you give some kind of assurance that voting for this bill will not create the kind of scenario I just described?

Mr Clarke: You asked first of all about the numbers. I confess I don't have the numbers. I suspect Daily Bread coming after me is going to have a little more information on that than I do. I know, however, that enormous numbers of people are using cheque-cashing institutions. In municipalities where the postdating of cheques practice has not been ended, on GWA cheque day you get the sense that it would be necessary to use a crowbar to get people in or out of the local Money Mart. That was certainly the experience when I was working in the London situation, which really leads me into the second aspect of the question.

I think what we are dealing with here is effectively a levy on the poor. We're dealing with a situation where

people are losing a portion of desperately needed income in a way, and I think this is really the consideration this committee needs to make. It is totally and utterly unacceptable. You're quite correct: In an ironic sense Money Mart, it could be said, is fulfilling a need. The problem arises because of the failure of financial institutions, especially banks, to provide what should be an obligatory service—the provision of cheque-cashing to persons with welfare cheques.

The problems arise in a number of ways, but I believe that in many situations, perhaps at the local level in banks, there is a feeling that the cashing of welfare cheques is at best an unpleasant chore and banks have shied away from doing it. I think the approach a government needs to take is not to say that giving away money to cheque-cashing operations is an unfortunate ill, but we have to reconcile ourselves to it. I think the approach the government would have to take is to say that we are going to ensure banking and other institutions start living up to what should be a responsibility.

The passage of Bill 154, I think, should facilitate and increase the process by which the government makes clear to banking institutions that (a) it is ready to work on the problem of providing acceptable means of identification, such as the MOT identification proposal, and (b) that it is going to work seriously to negotiate with banks to ensure people are not left hanging. My understanding of the experience in Quebec is that there were some problems around not providing acceptable alternatives, of passing the law first and then worrying about the problems. I don't think that needs to be the situation with regard to Bill 154.

Mr Norman W. Sterling (Carleton): On the identification issue, the state should always be concerned about how much identification a person is required to carry around with him etc. Are there acceptable proposals to you to improve the identification of people who are using this kind of service?

Mr Clarke: I certainly think the abovementioned notion of an issue of an identification through the Ministry of Transportation that people could access if they wished to seems to me to be an equitable and reasonable arrangement. If the provincial government at the same time made clear that as far as it was concerned it was a valid piece of identification and the cheques that were cashed using that piece of identification would be honoured, then surely the worries of financial institutions would be very readily removed.

Mr Sterling: Mr Wiseman makes a good point in terms of leaving these people in the lurch, so to speak, if in fact we pass this bill, and that's a concern. However, the big problem is that successive governments have dragged their feet in terms of doing anything really positive on this. I suspect our government didn't do anything back in the early 1980s and I know the Liberal government was talking about doing something, and you know that talk goes on and on. I guess what Mr Morin's bill would do is provide some impetus for the government to really take action because it would be faced with a critical problem if action wasn't taken.

If we did pass this bill I would insist on a much later date. I've talked to Mr Morin privately about the July 1st deadline and that's probably not practical in terms of putting something else in place and that kind of thing. How much communication is there with various organizations, with these people who use this service so that they would be able to get ready for the judgement day, so to speak?

Mr Clarke: In large measure, organizations like ours consist precisely of people who use Money Mart. When we met this last week with representatives of the Ministry of Community and Social Services, several people around the table who were representing anti-poverty organizations were able to pull out their Money Mart cards and lay them on the table. I don't think there's a problem there. I would also like to say, however, that I'd like to stretch the point you made about the need to actually put some pressure on the negotiation process in terms of passing the bill and then working during the grace period. I think many of us around this table have been involved in negotiations of one kind or another and we have an appreciation for the fact that it's sometimes necessary to start the clock if you're going to do a good job of negotiating.

Mr Sterling: I don't find it totally reprehensible that you charge a customer something for the service. I just find 2.9%, 2.7% or whatever it is extremely excessive for the service they're providing. That's what I consider the problem. In terms of the people who have bought these franchises in good faith, under our laws in Ontario we do not have any franchise legislation which requires the master franchiser to provide any information to the franchisee as to what the dangers are, if there's no prospectus required. Some of these people presumably have put out a fair buck in terms of setting up. They might be into leases which could be for a long term. I guess the easy thing for anybody to say is that the government should give compensation to the franchisee. Have you got any comments on that?

Mr Clarke: On the first part of what you said, I think it does need to be said that the kind of money being taken by cheque-cashing institutions crosses the line between any concept of a legitimate fee and the taking of a cut. However, with regard to your second point, the franchise holders, I have to confess that I'm not an expert in the area and it's not my particular matter of concern. I don't wish to appear inordinately insensitive to people's plights. All I would have to say is that if franchise holders feel they've been wronged, they're going to have to argue their case. I'm certainly not here to argue it for them.

Mr Morin: It's not a question I want to ask, but just comments that were made by Mr Wiseman and Mr Sterling. The first one is on Quebec having passed the law and having difficulties, because there is a certain element of truth that they're having difficulties cashing their cheques. I understand that Quebec at the moment is in negotiation with the Canadian Bankers Association to arrive at a solution.

This is the key of the whole thing. It's to bring financial institutions together to come to a solution and solve that concern you have. I know it can be done. For instance, we checked in Holland and other parts of Europe and this

is not a problem over there. It doesn't exist, so we must assure ourselves that we know we can find a solution.

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The second thing is about franchise. There are questions, of course, that I ask myself about franchise. First, let's look at the number of outlets of Money Mart that existed in 1985. I'm told in my research there were only 42 at that time across Canada. There are 93 now in Ontario alone. It seems to be a sort of gauge for the economy; if the economy is bad, you see the number of Money Marts increasing. Of course, there are more people on welfare.

I ask myself a question. A trial was taking place in Quebec, Money Mart was appearing in court. They appeared, they lost; they appealed, they lost. They went to the supreme court of Quebec; they lost. All through that time, they were selling franchises in Ontario.

I was in the investment business for 17 years dealing in stocks, bonds, debentures, mutual funds and portfolio analysis. I dealt with banks, financial institutions and insurance companies, and I had a fairly large list of clients. Some were gamblers and others weren't. Of course, it varied with age; the older you get, the more security investment you want to have. The first questions they always asked me were: "What are the risks? Is the company healthy? Is the capitalization of the company good? What is the earnings ratio? If I put in \$1,000, what kind of return will I have?"

When it came time for Money Mart to sell franchises in Ontario, were these questions asked by the person buying the franchise? "What are my risks? Is the government involved?" The issue wasn't new. This is not a surprise, it's been going on. In 1981 the province of Quebec passed a law, and Money Mart operated illegally and was brought to the authorities. They challenged the law and they lost.

All through that time, they were selling franchises. In 1989 I introduced a resolution in the House. I started working with the project in 1986 after having dealt with other taxation businesses. H and R Block is another system, I think, that took advantage of people who simply didn't know. Profits went as high as 90%. We managed to convince the federal government to change, and it did. So this is the question I ask.

It was a risk; it was not a new issue. We were not taking anyone by surprise. Why were there so many people getting involved in that business? Surely if they asked the right questions—"How much money can I make? What kind of risk do I have? Is it a calculated risk?"—it's a calculated risk because Ontario hasn't passed the legislation yet. Quebec, the second-largest province in Ontario, has passed the legislation; surely Ontario is going to do the same. Ontario is going to look at that. Ontario doesn't treat its poor people differently from any other people. These are perhaps questions Mr Clarke could answer. You should ask him these questions. Those are my comments.

Mr Michael A. Brown (Algoma-Manitoulin): This won't come as a surprise to you, because I'm a northerner in a largely rural riding. I was just wondering if you had some information about what kind of a problem exists for rural people in cashing those cheques. Just so you understand, there are many from my community who are 40

miles from the nearest bank. Therefore, I don't know, but I suspect they would tend to go to the local general merchant or whatever to provide that service.

Perhaps in some ways my constituents would relate to the Maritimes situation you described, at least in terms of the fact that identification isn't a problem. Everybody knows everybody, so you don't get into the who's who problem you have in Toronto. But are you getting from the people you represent problems in rural ridings such as mine?

Mr Clarke: I think, generally speaking, there is the Maritimes familiarity sort of situation in rural areas. In some ways the situation tends to be easier. I also think, in talking to people from organizations within our coalition who come from rural areas, it is many times the phenomenon that people go to the local store. Sometimes the deal is that a certain amount of purchase has to be made at that store for the cashing of cheques. There are many ways in which the rural poor have an additional set of burdens, and perhaps that's one example of them.

The Chair: I'd like to thank you, Mr Clarke, for appearing before this committee with your views on Bill 154.

DAILY BREAD FOOD BANK

The Chair: The next group to come forward is from the Daily Bread Food Bank. Ms Sue Cox, would you come forward, please. I'd like to welcome you here to the committee.

Ms Sue Cox: Thank you very much. I'm delighted to be here.

The Chair: I don't know whether I see the sun shining out there yet or not. Maybe you brought the sunshine out there.

Ms Cox: I hope I can add something to this discussion. There is a document travelling around which perhaps can help you.

Let me, first of all, declare for you our particular interest in this issue. It obviously has to do with our commitment to taking whatever measures are possible to reduce the need for food banks in the Toronto area. It's frequently argued that in a recession this can't be done, that food bank use must increase and that the conditions of people must continue to decrease or that hardships should continue. Yet it appears to us that this is one of a whole bunch of measures that can be taken, perhaps even at very little cost to the taxpayer, that can have a real impact on people who use food banks.

That's where we're coming from and that's why, for the first time this year in our survey of food bank users, we looked at the issue of the use of cheque-cashing companies and what impact it would have. Of course, as often happens when you do a survey, you ask a lot of questions that you think are good questions, and when the answers come back they beg a lot more questions. So we don't have all the answers, but we have at least got some insights about how often and who uses these kinds of facilities based on our sampling.

Our sampling, incidentally, is of a thousand food bank households, that is, households that use a food bank. They're randomly interviewed in food banks throughout

the greater Toronto area over about a three-week period, using trained interviewers. It's a very extensive document. It tells us a lot of background about their income, housing and health. Almost anything probably that you know or have ever read about who uses a food bank comes out of that survey. We do it with the assistance of the city of Toronto's health department and York University. It's a very statistically significant sampling of people.

In our survey this year—and I must say, incidentally, that we haven't run all the data yet; I was up until the wee, small hours this morning pulling some of this together—one of the things that shocks us right now is the condition of people who are using food banks. I'd like to use that as the context for what I have to say about cheque-cashing facilities. On the first page of the document that came around, I want you to take a look at the data which show how much people actually have left after they've paid their rent and if they have bought enough food according to Agriculture Canada's standard of what it costs to buy food in Toronto.

On the graph on the first page, the baseline represents what Agriculture Canada says: You need to purchase food for your family, which is a monthly report that comes out, plus the rent and utilities paid by food bank users who are in market rental housing. You'll see from this that you do have about \$1.50 left if you're in a one- or two-person household. That's \$1.50 a month. It wouldn't get you on the TTC if in fact you bought what Agriculture Canada says you need to buy to stay healthy.

In any family larger than that in fact you have less than what your family needs to buy food and pay the rent. Of course that impact therefore is greater on families with children, because they tend to be the larger family. A family with six ends up with basically half of what it needs to buy food, so the use of food banks is not surprising. Indeed, food banks which supply a meagre three-day supply of food once a month are hardly filling the gap for these people.

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Second, in an attempt to gauge the extent of cheque-cashing company use, we asked a simple question about where people cash their cheques. While 27% of people had used one in the last year, at the time of the interview between 13% and 14% of people were currently using a cheque-cashing company to cash their cheques, and the graph shows that. I'd also like to note that people use other places that also take a cut, a fee: informal cheque-cashing arrangements with corner stores, with landlords, with business people they know. That's of equal concern. The use is very high among food bank users. It literally means food off the table.

Welfare recipients report paying 4.9% on their welfare cheques to the cheque-cashing company. The average food bank household has \$1,000 a month. We're talking about \$49 a month, we're talking about real food, we're talking real meals in those kinds of terms. The hardship is unquestionable. We also found that a lot of our assumptions, and there were indeed assumptions that in some sense went into the survey, turned out not to be true. We'd assumed, for instance, that use was highest among people who are

recently in Toronto. It's not true. The highest users are the people who have been in Toronto a long time.

The highest type of use was by FBA recipients. The working poor used them less than anybody else, even though for paycheques the cheque-cashing fee tends to be 2.7%, 2.9% or something of that kind. Long-term residents, Canadian citizens, FBA recipients, tend to look like the typical people who use cheque-cashing facilities. There are actually very little variables across the various types of people except that single people have a tendency to use it more.

The next tables that you see are the ones that show the length of time people have lived in the Toronto area. In percentages, it shows all of the users of food banks, and second, the cheque-cashing facility users. There's a much higher percentage of cheque-cashing users who are long-time residents, if I'm making that clear. Second, we found that refugees virtually never use cheque-cashing facilities. The only instances where they do are where refugees come to the area without any identification, having destroyed their identification when they came.

Other refugees and immigrants appear to have much better identification because they just have; I'm an immigrant myself and I know about those papers. They have good documentation, which is not necessarily true of the Canadian citizens who are using them. We hypothesize and cannot prove that issues of identification are significant ones and account for the longer time you've been in Toronto, if you're a food bank user, the more likely you are to cash your cheques at a cheque-cashing facility.

I think there are a number of other things we found out that interested us, particularly perhaps those dealing with the direct deposit option which we've always supported as an option for very poor people and welfare recipients. We were struck by some of the discrepancies between the number of people who used direct deposit and the number of people who thought it was a good idea. Over half the people thought it was a good idea for them to use direct deposit, yet only 16% were actually getting their cheques in that way. We also found that there was a fair amount of ignorance about this as an option. The conclusion that we draw from that, and again it's hypothetical, is that there are some real problems in access and in information and just knowing how to go about it, for whatever reason; I can't tell you why.

However, it's also in question because the direct deposit is not an option for everyone we talked to. Particularly those—I'd say almost exclusively those—who have debts or fear they may acquire debts will not use this as an option because of fear of the money being garnisheed. Of course welfare income is protected, but once it's in the bank it's not any more.

The solutions, I think, to this problem are not particularly complex, but there isn't one single magic bullet to fix it. We certainly would see this bill as an important measure alongside some other things. For one thing, to make it illegal to cash government cheques just makes plain sense to us, given the hardship on those people who receive these government cheques. Second, we've really got to push the idea of direct deposit. It appears to be the best

option for most people, although it isn't the only option and it isn't the option for everyone.

I think we have to actively solicit the cooperation of the banking institution and banks in a variety of measures that make it easier for people to go in. That might include ID, which could conceivably, I suppose, be issued by banks as well as by the government. I don't know what's the best way to do that. But a lot of the onus really does seem to be on financial institutions, from our perspective.

For instance, a lot of food bank recipients tell us that they use savings accounts in order to reduce bank charges. Then they have to go in and pay \$3.50 to get a money order to pay their rent—I mean, \$3.50 is a significant amount of money for the people we're talking about—or any other bill. Perhaps it's naïveté, but I would think that the banking institutions would be fairly willing to talk about some of the issues if they realized the hardship that was imposed on people.

Other surveys we do take a look at food donors and who they see as being responsible for fixing the problem of food bank need, and 80% of them see the government as being responsible. It seems to us that this is fairly easy, relative to doing a lot of things like perhaps across the board welfare increases, which actually we would fight for but perhaps are not possible now.

I think the cooperation of banking institutions could be solicited, and to some good public relations effect, if people realized that their tax dollars were in fact going to where they want them to go. We have fairly good indications, at least among people supporting food banks; they that they would even in many instances pay more taxes to ensure that people are fed if they could be sure that in fact the money went into people's pockets, and that's always the caveat when they answer that question.

I just want to mention before I wrap up that the issue of receiving cheques which are post-dated for welfare recipients is a significant one, and significantly, obviously adds to the use of the Money Marts. I really don't understand why it isn't a fairly simple matter just to insist that the cheques be dated on the day of issue. We know perfectly well that people would rather actually lose the money at a Money Mart than suffer the embarrassment of going to a food bank. Most people are embarrassed about using food banks. They see it as begging. Our phones run hot doing referrals until the day the cheques are issued, and even though the cheques are post-dated, they stop ringing on the day the cheques are issued, because people, if they've got a cheque, will go to the Money Mart rather than go to a food bank. People do not use food banks unless they're desperate, and that's the bottom line.

I'd be happy to answer any questions about all that complex stuff.

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The Chair: I have two on my list so far.

Mr Derek Fletcher (Guelph): Thank you for your presentation. I was just wondering. Is this bill standing alone going to solve the problem that's going on right now?

Ms Cox: Not on its own, no. I think working with banking institutions is important. I think it's also important

to look at direct deposit options for a lot of people. It certainly is one of the very important first steps.

Mr Fletcher: You think it's one of the first steps.

Ms Cox: Yes I do. It obviously has to be done in conjunction with the discussions with financial institutions. Frankly, what I know about financial institutions you could write—I remember my personal identification number and that's about the extent of my knowledge.

Mr Fletcher: You're ahead of me.

Ms Cox: I can't pretend any expertise. Obviously it has to happen in conjunction with some kind of action there and I believe that action can be voluntary. I can't believe banking institutions would resist that totally heartily. I think some of the difficulties are always, though—the issue of branch offices having different practices. You can go to a bank and have one set of rules and regulations for cashing welfare cheques and walk around the corner into the same bank, another branch, and have a different set of rules. I don't know how banks deal with their bank managers. Maybe you guys do.

Mr Fletcher: No, I think the banks have to be brought into line. I think it's about time.

Mr Norm Jamison (Norfolk): Listening to you speak, you seem to be very positive on the direct deposit approach—

Ms Cox: Yes, I feel very strongly about it.

Mr Jamison: —although your concerns, if I understand you clearly, are that the information on the availability of this to the recipients is really not well known out there at this point.

Ms Cox: I'm hypothesizing. Why is there a huge discrepancy?

Mr Jamison: Coupled with this legislation—I know there have been some difficulties in the province of Quebec but I think Mr Morin has really indicated that solutions can be found there. I find it at least disturbing to understand that in some cases as high as 4.9% of a cheque is required to cash that particular cheque. That, in my mind, destroys to a great degree the effectiveness of our social system. It can be questioned whether there's a legitimate infringement on the poor there. As much as 4.9% in some cases is far in excess of what the increase in social assistance payments can be, year over year, so I agree with you. I see a very clear problem here.

I don't understand at this point why, if this bill is important—what other measures would you see that would be important in conjunction with this bill?

Ms Cox: Issuing good identification for people, direct deposit and this bill, plus negotiation with financial institutions, I think, is the picture I see, roughly.

Mr Tony Ruprecht (Parkdale): First, I have some great news for you.

Ms Cox: Oh yeah?

Mr Ruprecht: Yes, there will not be any need for food banks in the future.

Ms Cox: Oh yeah?

Mr Ruprecht: The Premier made a recommendation, a decision, two years ago that we will not have a need for them, so I expect that within a year or two that won't be necessary.

Mr Jamison: This is not the place—
Interjections.

Mr Ruprecht: Second, Mr Chairman, I was at a meeting—

Ms Cox: I think I've heard this discussion before.

Mr Ruprecht: I was at a meeting with a local credit union and the priest stood up—this was at an anniversary ceremony—and said to them, "Why would the local credit union—

The Chair: Mr Ruprecht, could you speak into the mike a little closer?

Mr Ruprecht: I thought I was doing quite loudly.

The Chair: We just missed everything that you said.

Mr Brad Ward (Brantford): We didn't miss much.

Mr Ruprecht: The local priest had indicated to the credit union that he had personal knowledge of the problems of the poor in cashing cheques and he suggested that the local credit union would be in a position to cash cheques. Do you have any knowledge of why other institutions would be unable to do that, other than banks?

Ms Cox: No, I don't. I'm afraid I really can't add anything to it. Sorry. Maybe our next survey.

Mr Morin: Could I answer that question? The main reason banks haven't studied the issue is because they never got together. I think if this committee can bring the Canadian Bankers Association and the credit unions, the caisses populaires, together with the government they'll be able to come to a solution. All it takes is time and involvement. A system, I am assured after the discussions I've already had with the Canadian Bankers Association, can be found. It's just a question of sitting together and finding it.

There are all kinds of ideas out there, but it should not be done by imposing it. When you impose it, you create problems. It's through consultation with others, because our goal is to make sure that people receive the full amount, done in a way that dignity is maintained and in a way that people can be treated equally, like anybody else. It is a financial transaction. It's a government cheque. A government cheque, to me, is as good as gold. It's you who's paying for it. We're all paying for it. Why should we tax a certain segment of the society, especially with government cheques?

Please keep in mind that the purpose of my bill is not to close Money Marts; it's to make sure they don't charge a fee when it comes time to cash a government cheque, be it federal, provincial or municipal. It's as simple as that.

So if we can bring the bankers' association, the institutions, here and say to the Minister of Consumer and Commercial Relations, "Sit down with the banking association and come to a conclusion"—of course, my bill says it should be implemented by July 1992. I had to put that date on. If it's got to be delayed let's delay it, but let's make sure we find a solution. I don't believe in using a big

hammer to solve such an easy issue and I cannot understand that we've waited so long.

The Vice-Chair (Mr Kimble Sutherland): Mr Carr, did you have a question?

Mr Gary Carr (Oakville South): I just have a quick comment. I want to thank you for a very fine presentation. It was very thorough and I appreciate it.

Ms Cox: At 4 o'clock this morning—

Mr Carr: It didn't appear like it was that rushed. You did a good job.

The Vice-Chair: Thank you very much, Ms Cox, for coming before us and making your presentation on this issue.

Ms Cox: Hurry it along.

CHEQUE CASHERS ASSOCIATION OF CANADA

The Vice-Chair: I would now like to call upon Mr Steve Clark, who is president of the Cheque Cashers Association of Canada, the next group up. I believe you have a video you want to show.

Mr Clark: I will get to that in a moment. In the information kits that are handed out—

The Vice-Chair: Could you just please take the chair? Otherwise the mikes have trouble picking you up. Just before you begin, I don't know the other person; just for the purposes of Hansard, if you both could introduce yourselves that would be great.

Mr Clark: My name is Stephen Clark, president of the Cheque Cashers Association of Canada, and this is Leslie Baril, owner of several cheque-cashing outlets in the Metro Toronto area.

If you look at the information kits that were handed out, if you pull the last brief out on the right-hand side, that's what I will be presenting right now, if you care to follow along. It has this appearance. The rest of the information certainly can be looked at at your leisure.

The CCAC was incorporated in November 1990 and represents 170 of the 200 cheque-cashing convenience outlets, 100 of which are in Ontario.

The industry today is dramatically different than it was 10 years ago. The first stores served predominantly those who were not being served by the banks. We had a very narrow customer base, and over the years we carefully listened to the desires of the consumers who came to us and we worked very hard at identifying and delivering their needs.

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The result today is that consumers appreciate the personalized convenience and they know we will go out of our way to provide a level of service that's superior to that obtained elsewhere. Today's stores are bright, clean and modern. They offer a safe, casual and comfortable environment.

The industry has grown substantially over the last 10 years and today there are 4,100 cheque-cashing outlets in North America.

Today's consumers want fast service and convenience. Most outlets are open until 9 pm, and several are open even later. The majority of the business is done outside

banking hours. The locations are designed for easy access and neighbourhood convenience.

In addition to cheque-cashing, most outlets provide Western Union service, mailbox service, currency exchange, utility bill payments, photo identification, bus passes and American Express money orders.

Money orders are very popular and are provided at less than one third the cost charged by financial institutions. Many outlets provide money orders free to customers when they pay to get their cheques cashed, and this of course is considered added value by the consumers.

On average, the fee charged for most cheques cashed today is 3.5%. Generally the range is from a low of 2.9% to a high of 4.9%. The fee amount is reflective of the cost of providing the service, the ID presented and the risk involved in performing the task.

Over the years this has become a very competitive industry, which continues to influence not only the fees charged but the level of customer service provided. Fees have constantly been reduced, while the level of service has increased.

Ultimately the services provided and the fees charged within the industry have to compete with the level of service and the charges of financial institutions and automated teller machines. For example, it can cost \$1 to \$2 to get \$40 from the "fast cash," most frequent amount button on ATM machines. This represents a fee in the range of 2.5% to 5%.

We're a convenience business, much like neighbourhood convenience stores. People don't buy everything they need from a 7 Eleven, and just the same, people do not cash every cheque they get at a cheque-cashing outlet. The average use is 4.5 times a year for a cheque-cashing customer of our industry.

The industry today is dramatically different than 10 years ago. Not only is it a much broader base of customers but the reasons today's customer uses us have changed. Their lifestyle is different; their appetite for fast service and convenience is tremendous. There have also been significant technological changes, enhanced social awareness and significant government and banking policy changes as a result.

Bill 154 does not reflect today's situation. We have watched the debate regarding Bill 154 and we're concerned that there are some very serious misconceptions about the cheque-cashing industry and the financial institutions.

Legislation should not be passed without a sound factual base and a rational understanding of the issues. Although well intended, Bill 154 will not ensure access to financial services by low-income Ontarians. Further, a review of Bill 154 shows nothing that will require the banking industry in the province to work with the government. These misconceptions that are inherent with Bill 154 are primarily due to the lack of understanding of today's facts. Of course this is a communication issue.

The facts today are that people can and do cash cheques at financial institutions. Over 99% of the approximately 3.8 million government cheques are negotiated every month at credit unions, banks and trust companies. Although most people do, they are not required to have a

bank account to obtain cheque-cashing services if they choose not.

Anyone who holds a cheque made payable to themselves can present the item to the bank it's drawn on and get it cashed. Today's trends are such that in many ways it's easier to cash a government cheque than most payroll cheques.

As I've said, things have changed, and over the last 10 years governments and the banks have shown awareness, sincerity and actions regarding the issue of access to financial services by low-income Ontarians. For example, in March of 1985 the Canadian Bankers Association "adopted a common policy under which known account holders, cashing government cheques at their own branch, will receive their funds immediately. In some circumstances in the past, these funds were placed on 'hold' while cheques cleared."

The problem at hand, of course, was that people wanted their cash immediately, and this is a fundamental service provided by the cheque-cashing outlet.

As well, in May of 1986 the banks went even further and an agreement was made with the federal government whereby the federal government would guarantee cheques up to \$750 for non-bank customers.

Other similar agreements exist in the provinces of BC, Alberta and Quebec. In May of 1984, for example—this is relevant to today's issue, gentlemen and ladies—the following excerpt from a prepared statement by the Canadian Bankers Association regarding British Columbia's agreement was provided. See if this sounds familiar:

"With respect to provincial MHR cheques, the government recognized that with the dramatic increase in the number of persons being assisted under social service programs, action had to be taken to ensure recipients were able to cash their cheques. A program was established to ensure that on being presented with approved pieces of identification or a special letter of identification from the government, banks would be able to cash Ministry of Human Resource cheques.

"The provincial government agreed to indemnify the banks for any losses due to fraud or forgery if the cheques were negotiated within their stipulated guidelines."

The brief went on to say, "Frankly, we can see no reason why recipients of BC government cheques would wish to pay a fee to use the service of Money Marts, other than for convenience."

The question today is, if Bill 154 was to become law, what would be the result? Bill 154 would require those from the cheque-cashing convenience industry to refuse service to many Ontarians based solely on their social and economic condition—because they receive benefits from the government—while at the same time provide service to those who receive their income from the private sector.

Discrimination such as this offends the fundamental principles of society. Constituents, consumers and advocates of the poor will not accept legislation which dictates how recipients receive and spend their benefits.

I have brought with me today—the boxes are here; there are four there and there are four there—60,000 signatures protesting Bill 154. These signatures came from constituents

and consumers who are furious about any legislation that singles out and stigmatizes recipients of unemployment and welfare benefits and, in doing so, harms their feelings of self-worth by implying they don't have the ability or the intellect to make a rational choice. They are angry because this bill will cause a decrease in needed competition to the banks, it will effectively decrease access to financial services and literally force people to use financial institutions as their sole choice, even if they desire not to.

Further evidence of the public's view is provided by the enclosed Decima Research survey in your kits. In that survey, 75% of those asked felt, "People who receive government benefit payments should not be required to cash those cheques at banks only, but should have the same right to choose as everyone else."

The right for recipients to determine how to spend their benefits has also been publicly advocated by the Ontario government's Community and Social Services minister, Marion Boyd. In a recent article dated March 14, 1992, in the *Hamilton Spectator*, Ms Boyd agreed with the principle that the government has no right to dictate how recipients spend their benefits.

Referring to comments made on CHML's John Hardy Today talk show, Ms Boyd defended the government's refusal to make welfare recipients accountable for how they spend their benefits. She told one caller that suggestions that welfare recipients are not entitled to take cabs or buy a case of beer represents a "punitive attitude." She further stated, "Welfare payments allow the poor an opportunity to learn how to handle money, and the state shouldn't intervene to ensure it's not spent on beer or bingo."

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Bill 154 directly refutes the principle of individual freedom of choice. Government has the responsibility to deliver benefits to those who are in need. Once delivered, these benefits belong to the recipient, and it should remain that individual's decision as to what type of financial services he chooses. To do otherwise is to assume a paternalistic attitude, the principle of which is not supported by the government of Ontario.

These principles have also been articulated in Ontario reports such as *Transitions*, which states:

"Individual responsibility is greatly enhanced by treating people with respect and providing them with choices rather than imposing solutions. Self-determination is not promoted when people become accustomed to having decisions made for them by others."

It goes on to say, "Concerted and innovative alternatives should replace legislation that reduces self-esteem and profoundly limits choices."

Regarding the issue of identification, one needs to look again at the proposed bill. We find nothing in any of the sections that addresses the issue of lack of identification required for encashment of government cheques. It's difficult to see how Bill 154 will do anything to enhance the situation of those who are temporarily without valid identification. Bill 154 would require the industry to refuse service to those people. Regardless of your income, birth certificates, social insurance cards, passports and OHIP cards

are available. Furthermore, the government also issues photo identification. It costs \$10, it's readily available.

Social service recipients can now obtain a letter of identification from their social worker. This is important. This letter is acceptable by the banks, and cheques are currently being cashed for those without identification on this basis. The government is acting on this issue.

It is clear that Bill 154 does not reflect today's trends, the desires of the consumers or what would be in the best interests of the people of the province. The stated aim of Bill 154 is to ensure that recipients of government assistance enjoy access to financial institutions and not be penalized for their socioeconomic situation. Bill 154 will not ensure that banks cash government cheques.

Once again, looking at all sections of the bill, we fail to find anything that indicates to us it will ensure access to financial institutions. It's not there.

A reading of the bill indicates to us that it will reduce access to financial services. Over 100 Ontario locations currently providing a convenient neighbourhood service, even after the banks have long closed for the day, will have to refuse service, because the simple fact is that this service cannot be performed for free. Regardless of whether the service is performed by financial institutions, a merchant or a cheque-cashing outlet, there is a very real overhead cost. There's a substantial capital requirement and a very real risk of significant loss. In Metropolitan Toronto, 1,300 stop payments are placed on benefit cheques every single month.

Bill 154 does not reflect today's situation any more than section 251, a similar legislation of the Quebec Consumer Protection Act. Was there a problem to address in Quebec back in 1976 when it was first proposed, and in 1978 when it was first enacted? Probably so. There were probably problems then. It certainly was not addressed to our industry. This industry did not exist in Quebec or anywhere in Canada until 1982. Once section 251 was enacted in Quebec, did it ensure access to banks by low-income Quebecers? No, it didn't. Nothing changed and the problem of the day continued.

No policy changes were made by banks in Quebec until 1985, seven years later. It is important to note that there is no power within either legislation that will force the banks to cash government cheques. It's not there. If you look at the legislation, either one, it's not there.

In a recent conversation with Lise Corbeil, the executive director of the National Anti-Poverty Organization, she informed me that low-income individuals' access to financial service is not an issue for them and has not been an issue for several years.

Further, in a letter from the Metro Toronto community services department, Ray Lazanik informed Mr Morin's office—this is important—that:

"At Metro we have changed the cashable dates of cheques so they are immediately cashable and have just released a request for proposals to the chartered banks for a comprehensive service and direct deposit system. Apparently, these for-profit companies are filling a need for some of our customers presently unmet by banks, some of which seem to not want to deal with our customers under

any circumstances. Forbidding the existence of for-profit services can drive them underground or to the corner store. This would not solve the problem, but only bury it."

This in fact was exactly the result in Quebec when section 251 was enacted. There are stories of 20% and 30% fees being charged in the late 1970s and the early 1980s in Quebec.

It's been clearly demonstrated that the banks are very willing to dialogue with the Ontario government, just as they have with other governments. It's our understanding that positive initiatives such as direct deposit alternatives and agreements similar to those I have already mentioned are under way. Our industry supports the efforts of Metro Toronto and we support the efforts of the government's ongoing negotiations for agreements with banks, and specifically we support the alternative of direct deposit.

The Ontario government is already acting on today's circumstances and in the best interests of the public. In a recent response to a letter we sent to all members of the Legislature on November 25, 1991, Treasurer Floyd Laughren indicated that, "Bill 154...did not reflect current government policy." He went on to note that while he supported the concept of social assistance recipients requiring 100% of their payments for daily needs, he stated that:

"Prior to the end of the legislative session, Bill 156 was passed, which substantially amended the Financial Administration Act. In preparing these amendments we decided not to proceed at this time with any restrictions on fees for cashing the cheques of the government of Ontario. At present, the government of Ontario prefers to develop alternative ways to manage the payments process with no cost to the recipient. This would appear to be the most desirable goal, rather than, as you correctly observe, restricting individual freedom of choice in dealing with their funds. Measures under consideration include encouragement of direct deposits to individual bank accounts, reducing timing differences between cheque issuing and payment dates and raising the awareness of the banks to provide cheque-cashing services to welfare recipients."

This is an important comment that he includes in his letter. "We also have an arrangement with one of the major banks involving encashment of government cheques for those recipients who do not have bank accounts or sufficient identification." They're currently being served and the choice is there for them.

It should be noted that the policy decision arrived at by the officials of the Ministry of Treasury and Economics was a result of input received from all other relevant ministries, including the Ministry of Community and Social Services, which, as you know, is the issuer of government welfare benefits.

The Cheque Cashers Association of Canada strongly opposes Bill 154. Although it's well intended, it does not reflect a knowledge of today's situation. Clearly things are not what they were 10 years ago, and they certainly are not what is implied by Bill 154.

While we agree the delivery system, the financial institutions and the cheque-cashing industry are not perfect,

Bill 154 is not an improvement to that imperfection. This bill is not only out of step with current issues, it is not a means to enhance access to financial services. The passage of 154 would lead to a serious violation of the principles of organized society by robbing individuals of their right to make their own decisions about where and on what services to spend their own money.

Our industry should not be forced to refuse service to someone simply because his or her income comes from the government. This legislation will decrease access to financial services, it will cause a dramatic loss of hundreds of jobs by those employed within the industry and ultimately threaten the existence of a well-liked and well-supported financial service. With continued and improved access, there is no need for discriminatory legislation such as Bill 154.

Our industry is more than willing to share our knowledge. We've worked with these people for 10 years. We have some knowledge here that we are gladly willing to share. We will work with the Ontario government in order to determine the nature and the scope of any existing or future problems as well as aiding in the development of solutions to such problems.

Thank you very much for your time and patience. Briefly, we anticipate that many people here have not had an opportunity to really be in a cheque-cashing store, so we've got a four-minute video—that's all it takes—just to let you have a look at what this is about.

[Video presentation]

1155

Mr Clark: I'd be happy to answer any questions as long as time permits. As well, if need be, since time was short and we started late, I certainly can return to any future meetings.

The Chair: No questions? I'd like to thank you for coming before this committee.

Mr Clark: Thank you. I appreciate your time and patience.

Mr Sutherland: Mr Chair, we've had presentations, and there might be one or two organizations that maybe we should have heard from, but I think we've heard a variety of groups. I'd be willing to put the issue to a vote right now, if that's agreeable.

The Chair: Is it the pleasure of the committee? Should we have a 10-minute recess?

Mr Sutherland: There are also private members' bills going on and there could be votes on them. If we take the 10 minutes, we might not be able to get back here for the votes, so perhaps the committee is willing just to take the vote right now.

Mr Ruprecht: It's a good idea.

The Chair: Okay, fine.

Sections 1 to 4, inclusive, agreed to.

Title agreed to.

Bill ordered to be reported.

The committee adjourned at 1158.

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ISSN 1180-4386

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Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 7 May 1992

**Standing committee on
finance and economic affairs**

Labour Sponsored Venture
Capital Corporations Act, 1992

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Jeudi 7 mai 1992

**Comité permanent des finances
et des affaires économiques**

Loi de 1992 sur les corporations
à capital de risque de travailleurs



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 7 May 1992

The committee met at 1016 in committee room 1.

LABOUR SPONSORED VENTURE CAPITAL CORPORATIONS ACT, 1992

LOI DE 1992 SUR LES CORPORATIONS À CAPITAL DE RISQUE DE TRAVAILLEURS

Consideration of Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments / Loi prévoyant la création et l'inscription de corporations à capital de risque de travailleurs aux fins d'investissement dans des entreprises ontariennes admissibles et apportant des modifications corrélatives.

The Chair (Mr Ron Hansen): Good morning. We'll start the standing committee on finance and economic affairs. On the agenda today, May 7, is Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments.

MINISTRY OF REVENUE

The Chair: We'll start off with the Honourable Shelley Wark-Martyn, MPP, Minister of Revenue.

Hon Shelley Wark-Martyn (Minister of Revenue): Good morning. We are pleased to be given this opportunity to appear today before the standing committee on finance and economic affairs.

The economy of Ontario is undergoing enormous change. A major priority of this government is to help the people of Ontario to successfully respond to those changes, and to respond in a way that involves all the players in the economy. We believe that a concerted and cooperative approach on the part of business, labour, government and other members of the community is needed to meet the economic challenges facing Ontario today.

In response to the economic problems facing business and labour, the Treasurer announced a new two-part Ontario investment and worker ownership program in the Legislature on June 20, 1991.

This was the government's first initiative designed to deal with two important issues raised in the 1991 Ontario budget: the need to promote investment in industries to help them to compete and grow in the Ontario market and the need to provide opportunities for workers to get involved in and initiate economic change.

A discussion paper including draft legislation was released to the public on August 15, 1991. The present bill, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments, was introduced after consultation with business, labour and other investment groups.

The consultation process gave us some excellent ideas on program policy and administrative design, which resulted in improvements and changes to the original proposal. This approach is part of the government's commitment to a process which not only listens to the people of Ontario but also responds to their needs and concerns.

As I mentioned earlier, the present bill represents two programs in one. The first will provide a tax credit to encourage anyone in Ontario to invest in a portfolio of small and medium-sized businesses through a labour-sponsored investment fund. Under the bill before us today, Ontario residents who invest in the fund will get an Ontario tax credit of 20% on the first \$3,500 invested annually and a matching 20% federal tax credit.

The second part of the program will provide enhanced tax credits to encourage employee ownership through an employee ownership labour-sponsored venture capital corporation. Employee ownership will be limited to investments in the employer's business. Workers investing in their employer's business will be entitled to receive an Ontario tax credit of 20% on the first \$3,500 and 30% on the next \$11,500 invested annually in an employee ownership corporation. An employee's total tax credits are limited to a lifetime investment of \$150,000.

The federal government has agreed to deliver the Ontario tax credits for both parts of the program in keeping with the Canada-Ontario tax collection agreement.

The Minister of Revenue will be responsible for administering the legislation. In addition, there are also functions to be undertaken by the Ministry of Industry, Trade and Technology's Employee Ownership Advisory Board, the Ontario Labour Relations Board and the Ontario Securities Commission. The Employee Ownership Advisory Board will review, evaluate and make recommendations on the commercial viability of the employees' proposed investment. The Ontario Labour Relations Board will conduct the employee votes and ensure that only those who are eligible vote. The Ontario Securities Commission will administer certain investor protection provisions of the program.

This program is expected to provide new sources of equity capital, increase productivity and competitiveness, create and maintain jobs and build better relationships between business, labour and government, all of which should help contribute to stabilizing Ontario's economy.

Since the introduction of this bill in November and following second reading debate in December, Spruce Falls has been pre-registered as an employee ownership labour-sponsored venture capital corporation, and Working Ventures has been pre-registered as a labour-sponsored investment fund. Investors in both of these corporations have now received their 1991 tax credit certificates. Employees of Spruce Falls have invested \$9.7 million and received \$2.55 million dollars in tax credits. Approximately 10,000

Ontario residents have invested \$28.3 million into Working Ventures and received \$5.67 million in tax credit.

Working with these corporations has given the government experience in the application of the bill, experience which is not normally available until after a bill is passed. Based on these observations, the government is tabling policy amendments to ensure more appropriate approaches to investor protection for employee ownership labour-sponsored venture capital corporations and to reinforce democratic voting processes. There are also a number of additional amendments that support these issues and otherwise improve the administration of the program.

With respect to labour-sponsored investment funds, investor protection will be under the jurisdiction of the Ontario Securities Act. However, in recognition of special investor requirements, the employee ownership investor protection provisions will be administered under this bill.

Bill 150 is an example of this government's commitment to achieving the objective of sustainable prosperity.

I have asked my officials, supported by our colleagues from Treasury, Industry, Trade and Technology, Labour and Financial Institutions, to make a presentation of the legislative framework of Bill 150, to provide a context for the following presentations.

The Chair: Could I call on Mr John Whitehead, the manager of personal income and payroll taxes in the Ministry of Treasury and Economics. That's quite a title.

Mr John Whitehead: I'd like to follow on the minister's comments, if I may, beginning with budget paper E of the 1991 budget document, in which the government noted that the paper was devoted to a discussion of equitable structural change in the economy.

In that document the Treasurer noted that "public policies and private sector practices to provide workers with the security and influence necessary to enable them to accept and initiate change" would be necessary, as well as the need for "greater investment in infrastructure, technology and innovation" and "exploration of better ways to channel the capital resources of Ontario to finance restructuring and promote regional development."

Following shortly on the heels of this budget, as the minister noted, the Treasurer issued public statements on the government's interest in introducing a program to encourage investment and worker ownership.

When the consultation paper and draft legislation were released in August, Treasury, along with colleagues from MITT, Labour, Financial Institutions and Revenue, met with a number of groups and individuals representing business, labour and investment groups.

The consultations, which were held mostly throughout September 1991, resulted in a number of modifications and improvements being made to the original draft legislation. We also benefited from the experiences and legislation available in other provinces in Canada.

The amendments that are being brought forward today I would characterize as being mostly technical items dealing with non-policy-related issues. Some are the result of experience gained through the first few months of the program, as

the minister noted, and some reflect concerns that were raised at second reading of the bill.

Again, as the minister noted, the worker ownership program is actually composed of two components. Their primary common feature is that they both encourage investment in Ontario businesses by Ontario residents. The labour-sponsored investment fund corporation component encourages investment indirectly by allowing Ontario residents to invest in labour-sponsored investment fund corporations, which in turn invest in small and medium-sized businesses in the province. The program also encourages direct investment in firms where employee groups wish to become owners of the firm.

Each component of the program has its own objectives. For the labour-sponsored investment funds, it is to provide small and medium-sized companies with a new source of capital which they can use to modernize, for growth and for restructuring of their operations. For the employee ownership component, it is to facilitate worker ownership in order to increase productivity through participation in the workplace. It will help maintain jobs by supporting viable companies that may otherwise close and should go to improving management and labour relations by improving the awareness on both sides of the challenges facing each.

Individuals will obtain their tax credits by filing annual personal income tax returns. The 1991 income tax return contains this program now. Individuals make their investments with after-tax dollars. The tax credits will serve to reduce Ontario income tax, but they are not refundable, and unclaimed tax credits can be carried forward for up to five years to reduce future Ontario taxes if the individual did not have sufficient tax in the year to offset the credit amount. Altogether, the program will probably come in at about \$8 million for this fiscal year, and at maturity could cost the province up to about \$250 million, depending on the take-up.

The labour-sponsored investment fund corporation component is consistent in virtually all respects with the federal labour-sponsored venture capital corporation program. Prior to the budget, annual investment limits of up to \$3,500 for tax credits at a rate of 20% were available. The Treasurer announced in the 1992 budget that Ontario would parallel recent federal changes to their program. As a result, Ontario residents will be able to invest in a labour-sponsored investment fund corporation up to \$5,000 a year for tax credits of up to \$1,000 a year. The investments made under Ontario's LSIF program are matched by federal credits.

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The key differences between our program and the federal program are the carry forward of unclaimed tax credits, reduced recapture where market value has declined, the length of holding of shares until tax credits are not recaptured. With respect to the labour-sponsored investment fund component, I would note that a number of other provinces have similar programs, including Quebec, Saskatchewan, BC and Manitoba.

With respect to the employee ownership component, control of the business must change in order to qualify for the tax credits. The employees can acquire the business on

their own or together with a significant partner, as was the case, I would note, in the Kapuskasing deal. Control can be acquired immediately or over the term of a business investment plan filed by the applicant.

The difference in funding requirements between the general investment and mutual fund vehicle in purchase of a specific business is recognized with higher investment limits. On the labour-sponsored investment fund corporation's side of it, an individual is allowed to invest \$5,000 in a year. Under the employee ownership component, a tax credit of 20% on the first \$3,500 invested is provided and a tax credit of 30% on the next \$11,500 of investment is also to be provided. The higher credit amount for the second level of investments that an individual might undertake in his own firm reflects the greater risk to the employee of the higher level of personal investment.

As the minister has noted in her speech, this process involves a number of different ministries, and indeed the creation of the programs certainly involved a number of ministries. The administration of the program will also involve a number of ministries, but together the provisions of this program should go to encouraging otherwise viable businesses to be run by their employees, and will assist the employees in making those decisions.

I think that concludes my remarks.

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

The Chair: The next presenter is from the Ministry of Industry, Trade and Technology; Mr Bob Marrs, manager, employee ownership section. Welcome to the committee.

Mr Bob Marrs: Good morning. I'm just passing out some slides that will help you follow through the involvement of the Ministry of Industry, Trade and Technology in this new program.

Broadly speaking, the ministry has two roles in this. One will be to act as the economic development agent to encourage, where appropriate, employee buyouts of their firms, whether it be the divestiture of a division of a large corporation, a retiring owner or a variety of scenarios. The other is mandated in the act and includes two roles. It includes the role of the advisory board in evaluating proposals, and the role of the independent investment adviser to advise employees about the merits of their investment.

To walk you through that process, I would ask you to turn to the chart which is three pages in. MITT intends to have an evaluation program that will provide financial assistance to employee groups that want to look at whether this option is feasible. It'll be broken down in two stages. The first will be a cost-shared study with the ministry and the employee group. Up to \$25,000 will enable them to hire a consultant to go out and evaluate that proposal.

The second would be to assist them in structuring the deal and putting the business plan together and making application to the board. The advisory board will receive the applications, review them in terms of reasonable commercial viability and the equitableness or the fairness to the employees, and then that will be measured in terms of price and the broadness of the participation by the employee group, the kind of structure that would be put in

place and the human resources plan and just a general review of the prospects for success.

At that point an investment adviser will be retained by the employees. We will have a roster or some other similar basis on which employee groups will select an independent adviser who will, at the time they receive a disclosure document from the Ontario Securities Commission, sit down with the employees in town hall sessions or in face-to-face meetings and discuss the merits of those proposals. At that point, then the employees will make an informed investment in terms of the project.

The evaluation program I guess is going to focus on three things. In our research we've seen in the United States, they indicate that, broadly speaking, there's three factors you need to flush out fairly early: (1) Is there a committed employee group and is there broad participation? (2) Is the firm viable? (3) Is the current owner amenable and cooperative so there can be a smooth transition? The feasibility study upfront will of course address the viability, and the employees will be putting up half the funds for the study, so that will be some indication of the support.

The concept of having the two stages: When you look at the decision the employees will be taking, in some cases the option will be a plant closure, and what I think we want to accomplish is that employees look at this as one among a number of employment options that will face them and they will be able to make a quick determination about the merits of pursuing this course or going on and finding alternative employment.

The advisory board, as indicated, is made up of members of business, labour and government sectors. We'll likely have six members, two from each sector to start, and they will be evaluating based on the mandate indicated in section 42.

As I said earlier, MITT sees this as a potential for a situation where there are retiring owners or businesses that have divisions that are profitable that are not being effectively exploited in their current configuration. It might make sense in the hands of the employees. We see them being poor potential where there's excess capacity, they're consolidating plants and the decision to close has been made and you're trying to look at it retrospectively.

In terms of the US experience, their program is not exactly comparable, but they've had about 10,000 ESOPs over the life of their program and about 4% of those relate to employee buyouts. I guess that briefly outlines where MITT is.

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MINISTRY OF FINANCIAL INSTITUTIONS

The Chair: The next speaker is from the Ministry of Financial Institutions, Julie-Luce Farrell. I thought all the presenters would be sitting at one time and there were going to be questions. Just keep your papers for later on, if you can.

Ms Julie-Luce B. Farrell: Good morning. My remarks on behalf of MFI will be limited to disclosure, investor protection regimes and the role of the OSC.

As you are aware, there are separate regulatory regimes established for employee ownerships and the investment funds. These regimes will operate independently and reflect

the distinct nature of both EOs and the investment funds. They will achieve the same objectives, to enable potential investors to make informed decisions about the investments made available to them under Bill 150.

First, we'll discuss the regulation of employee ownership, which I'll refer to as EOs. The securities regulatory regime will prescribe a disclosure document to be given to all employees in connection with any distribution of shares of an EO.

The disclosure document will comply with the requirements of the act and the regulations. The disclosure document will contain a summary of information relevant to the EO and the eligible business in which the EO proposes to invest, including a summary of the business, investment and human resources plan for the eligible business after the EO buyout, disclosure of other material facts relevant to an investment decision, and prescribed health warning language relating to the illiquid and speculative nature of the investment.

The board of directors of the EO will be required to certify as to the accuracy and full disclosure of the information in the disclosure document. If the disclosure document contains any misrepresentations, including material errors and/or omissions, civil liability will be imposed under Bill 150 on the EO, its directors, promoters and others, and investors will have rescission rights.

The disclosure document and business plan or, if any portions of the business plan are to be kept confidential, those portions of the business plan in respect of which confidentiality is not asserted, will be filed with the OSC. The staff of the OSC will review the disclosure document to ensure that it complies with the technical requirements of Bill 150 and the regulations.

No employee vote can take place, the EO cannot be registered under the act, and no shares can be sold to the employees until a final receipt for the disclosure document is issued by the commission. Staff of the OSC will not issue a final receipt if it appears that the disclosure document does not fairly reflect the business plan or fails to comply with the formal requirement of the code. A clearly stated objective is that the disclosure document will be in plain language and adequately disclose the risk involved.

Arrangements relating to the regulation of flow of investment funds will be prescribed under the regulations to ensure that funds provided by employees are actually received by the EOs and used to invest in the eligible businesses. The OSC will monitor these arrangements.

Continuous disclosure: EOs will be subject to a number of ongoing disclosure obligations intended to ensure that employees are constantly aware of the changes in the EO's business that may affect the value of their investment, including disclosure of material changes, circulation of unaudited quarterly and audited financial statements, and valuations audited and quarterly unaudited will be filed with the OSC and placed in the public file which the OSC maintains.

On other matters, the regulation will also cover takeover bid regulation, proxy solicitation and insider reporting obligations, which will be regulated by the OSC and will mirror the requirements of the Ontario Securities Act.

On other issues, given the role of the board, of the independent adviser and of the OSC, given the regulation of flow of funds and also given the nature of the economic decision that employees are expected to make, there will be requirements under Bill 150 that registration be required to sell the shares of the EOs.

Now, for the regulation of the funds: For most purposes, the funds will be treated as mutual funds, subject to the same requirements under the act as those applicable to mutual funds. However, certain modifications will be required.

The disclosure normally contained in a prospectus of a mutual fund will be supplemented by additional requirements to reflect the distinct nature of the funds as an investment instrument. "Health warning" language will be required relating to the speculative and illiquid nature of these investments.

The investment criteria and objectives of the funds are distinct from the current investment criteria for mutual funds under the Ontario Securities Act. Those specific business investments and other restrictions on mutual funds which differ from those of Bill 150 will be modified to accommodate the investment criteria of Bill 150.

That disclosure document will be reviewed by the staff of the commission, and a receipt will be required before any distribution of funds securities will be permitted. The receipting of those prospectuses under the OSA will be based on compliance with Bill 150 requirements.

It is proposed that securities of the funds be distributed by securities dealers and also by mutual fund dealers registered with the OSC, who, however, will meet certain prescribed additional proficiency requirements which will be developed by the OSC in consultation with the Investment Funds Institute of Canada.

As for continuous disclosure, documents with respect to the funds will be filed with the OSC and also placed in the public file maintained by the commission.

The code will also provide for regulation of ancillary mutual fund matters such as advertising rules.

In the general application, secondary market transactions will also be addressed in the code, including the appropriateness of Ontario Securities Act rules relating to such matters.

Enforcement matters relating to the code will be dealt with by the OSC.

That concludes my remarks.

The Chair: Thank you.

MINISTRY OF REVENUE

The Chair: The next presenter is Mr Jim Evans, executive director, revenue services and operations division, from the Ministry of Revenue.

Mr Jim Evans: Good morning. If I may, I'd like to stand and use the overhead.

The Chair: Can you sit there so the mike will pick up your voice? I think you can operate the slide projector also.

Mr Evans: I'll do my best.

The Chair: Do you need someone to put the slides on for you?

Mr Evans: I will attempt to put them on myself and if that proves difficult we'll move to the alternative.

As the minister has described, the Ministry of Revenue has overall responsibility for the act, and my colleagues who have spoken before me have addressed the roles of the other ministries that are principally involved: Treasury from the perspective of policy, MITT in relation to the advisory board, and MIF and the OSC in relation to investor protection.

The presentation I am going to provide now is a description of the overall background and responsibility of the act as administered by the minister and the Ministry of Revenue.

Bill 150, as has been described, provides for the creation and registration of labour-sponsored venture capital corporations to invest in eligible Ontario businesses and for Ontario tax credits to eligible investors who have purchased shares.

The legislation is intended to advance the government's economic renewal agenda principally through the expansion of the capital markets to provide business with access to new sources of capital, to help them grow and adapt to new technologies and increase globalization of the market.

It is intended to initiate partnerships committed to the development of innovative programs to help Ontario meet the economic challenge of the 1990s; encourage individuals to invest in Ontario businesses and facilitate employee ownership; provide labour with greater opportunities for participation in the decision-making process, and develop new partnerships between business, labour and government to help Ontario increase productivity, improve labour-management relations and set the groundwork for sustained prosperity.

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As the minister has described, the Treasurer announced in the Legislature on June 20, 1991, the government's intentions to introduce this new program and thereby to provide workers with the opportunity to invest in their own and other companies and to provide business with access to equity capital to modernize and restructure operations.

Further details were announced on July 31, 1991, and on August 15, 1991. Draft legislation and a discussion paper entitled Ontario Investment and Worker Ownership Program: A Proposal for Discussion were released. During August and September, the government consulted with the public. As a result of the consultation process, improvements and modifications were made to the program, and Bill 150 received first reading on November 6, 1991, and second reading on December 18, 1991.

The program design of the bill does provide for two different types of labour-sponsored venture capital corporations: the employee ownership labour-sponsored venture capital corporations, which we describe as the EOs or employee ownerships for short, and the labour-sponsored investment funds, the LSIFs, sometimes referred to by us merely as "the funds."

The program is administered by the Ministry of Revenue, as you have heard this morning, with the exceptions of the employee ownership function, the Ontario Labour

Relations Board in relation to the administration of voting and the Ontario Securities Commission in relation to certain aspects of investor protection.

There is also an intergovernmental relationship within this program and that describes the role of the Revenue Canada—Taxation working with the Ministry of Revenue for the administration of tax credits through the income tax process. Interministerially, the Ministry of Industry, Trade and Technology is responsible for the Employee Ownership Advisory Board, the Ministry of Labour for the Ontario Labour Relations Board, and the Ministry of Financial Institutions and the Ontario Securities Commission in relation to investor protection.

Within the Ministry of Revenue, there are two organizations involved, the business investment plans section and the guaranteed income and tax credit branch in relation to the certificates.

The basic sequence of steps as it relates to the investment funds has the investment funds being established by a provincially recognized trade union. It has MFI and the OSC providing aspects of investor protection. The Ministry of Revenue will provide ongoing program administration to ensure compliance with the act, and the federal government will deliver the tax credits. In the case of the funds, it will match those credits.

In relation to the administration of the employee ownership labour-sponsored venture capital corporations, the Employee Ownership Advisory Board will, as we have heard in the presentation, review, evaluate and make recommendations on the commercial viability of the proposed investments. The Ontario Securities Commission will administer certain aspects of the investor protection and review the disclosure documents, as we have also heard this morning.

There is an independent adviser in the process to provide a third-party review for the employees considering forming such a group. The Ontario Labour Relations Board will conduct the vote and ensure that only eligible employees vote. At that point, if the approval and support are provided by all of those participants, the labour-sponsored venture capital corporation can set itself up as an eligible investor and apply to the Ministry of Revenue for registration. The Ministry of Revenue will then provide ongoing program administration and the federal government will deliver the tax credits against tax certificates that have been issued by the Ministry of Revenue. In this case there is no matching participation by the federal government.

A brief schematic of how the labour-sponsored investment fund cycle will work is that the recognized labour organization will establish the fund and it will seek to sell class A shares to shareholders, for which it will receive investment. It will then onward provide that investment to the small and medium-sized corporations in exchange for minority positions in those corporations. Under the fund, the labour-sponsored investment fund does not ordinarily take controlling positions in any of the small businesses in which it is investing.

At the present time, as provided by the bill before us, the eligible investors receive 20% Ontario tax credits on the first \$3,500 invested annually and there is a matching 20% federal government credit. The maximum credit

therefore is \$1,400, \$700 provincially and \$700 federally. As John has otherwise described, the federal budget and now the Treasurer have introduced proposals for increasing both the limit and the amount of the tax credit, the limit going to \$5,000 and the maximum credit going to \$1,000 each provincially and federally. The design of the labour-sponsored investment fund part of the legislation has been based on the federal legislation and therefore conforms to it in order to qualify for the matching federal tax credits.

In terms of registration, an employee organization may form a corporation for registration as a labour-sponsored investment fund by the Ministry of Revenue. That employee organization must be a trade union or association or a federation of trade unions that is recognized provincially. Federally registered labour-sponsored venture capital corporations will also qualify for registration as LSIFs by the Ministry of Revenue provided they adhere to the eligibility requirements of this act.

Eligible investors may be any Ontario resident who purchases newly issued class A shares of the investment fund registered under this act. A class A share entitles the holder to attend and vote at all shareholders' meetings, receive dividends at the discretion of the board of directors and receive an apportioned share of the investment fund's funds upon dissolution.

Tax incentives: Eligible investors will receive the combined personal income tax credit of 40%, 20% provincial and 20% federal, as previously described, on investments under the bill as it presently stands to \$3,500 annually, but as proposed, to \$5,000. The unused portions of any tax credits are not refundable on the investment fund side and therefore cannot be carried forward for application in any other taxation year. Generally, an investor in a fund will be making an investment as a matter of choice and will manage his investments accordingly.

Eligible businesses must be taxable Canadian corporations or Canadian partnerships that are active in any industry in Ontario. There are no bars as to the type of industry or business that can be eligible under this act. The business's total assets cannot exceed \$35 million under the bill as it presently stands—it will be \$50 million under the modified budget proposal—and there can be no more than 500 employees. That has not been changed by the budget proposal. At least 50% or more of its full-time employees must be employed in a business activity carried on in Ontario and the business must pay 50% of its wages and salaries to employees whose place of work is ordinarily at a permanent establishment in Ontario.

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An investment by a fund in an eligible business will be considered eligible if the investment is the purchase of newly issued shares of the eligible business, the purchase of a partnership interest in the eligible business, an unsecured loan or a secured loan. A fund may also participate as an equity partner with employee ownership labour-sponsored venture capital corporations as a significant investor and an investment fund may invest up to one third of its assets in replacement debt and equity under those circumstances.

The primary purpose, as we have described and as otherwise heard under this bill, is the injection or infusion of new capital. So that's why those limits are in place.

Eligibility requirements: A fund is restricted to investing no more than the lesser of \$10 million or 10% of its equity capital in any one eligible business. At least 70% of the fund's issued capital must be invested in eligible businesses within 24 months following the fiscal year in which the class A shares of the fund were issued. This level must then be continuously maintained to remain in compliance with the act. The fund is restricted to a minority position in any eligible business, except that a fund is permitted to take control of the eligible business for a period of no more than one year, where by doing so it would assist in preventing the insolvency of the eligible business or might assist in the restoration of the eligible business to solvency or transfer control of the eligible business to another person. By doing so, the fund is then protecting its investment in the business.

Share valuation: The shares of the fund must be valued annually by an independent qualified person and by quarterly updates of the management of the fund. It is the intention of the fund that it is making long-term investments in business. Therefore, the shares must be held for at least five years to avoid tax credit recapture provisions.

Redemption within five years will result in the recapture of the tax credit, unless the original shareholder dies, becomes permanently disabled or suffers long-term illness, reaches the age of 65 or retires and has otherwise held the shares for a minimum of two years.

Transfer of shares within that period therefore results in recapture, unless those previously mentioned circumstances prevail or the funds are being transferred into an RRSP by the original purchaser. The recapture will be based on the lesser of fair market value of the shares at the time of redemption or transfer or the original tax credit where the shares have appreciated in value. In relation to the sizing of the funds, there is a minimum of \$25,000 capitalization proposal, but there is no upper limit.

In summary, the features of the fund provide for the Ontario tax credit of 20% on the first \$3,500 of eligible investments, moving to \$5,000 on eligible investments based on the budget proposal. An eligible investor may be any individual resident of Ontario. The eligible business must be active in any industry in Ontario and there will be federal matching and delivery of the tax credits. The business's total assets cannot exceed \$35 million, and there can be no more than 500 employees. At least 50% or more of the business's full-time employees must be employed in business activity carried on in Ontario, and the business must pay at least 50% of its salaries and wages to people who are ordinarily employed at a permanent establishment in Ontario.

The employee ownership labour-sponsored venture capital corporation investment cycle: Typically, a corporation will be formed by eligible employees and these employees can be any employee group. It is not limited to a recognized trade union or organization of trade unions. The intention is that they create the employee ownership labour-sponsored venture capital corporation and issue

class A shares, which are voting shares, to shareholders in exchange for share capital. Those moneys are then used to gain control of the employer corporation, and that can be through an investment that is 50% of the voting shares of the corporation or in conjunction with another significant investor. It can be 40%, but control must change hands.

The federal government will not match tax credits for an investment in shares of the employee ownership labour-sponsored venture capital corporation. This is a function of the eligibility to form a function of the size. There is no upper limit in the provincial legislation—the bill now before you.

Employee vote: Employees vote on whether to purchase their employer's firm once the Employee Ownership Advisory Board has formally reviewed the proposal, as we heard this morning from Bob Marrs. The employees have been provided with the disclosure document and with advice relating to the proposed investment by an independent investor, as we've heard from Julie-Luce Farrell. The Ontario Labour Relations Board will conduct the vote and ensure that only eligible employees vote.

The vote is conducted to answer the following questions: Do you support the application for registration of the corporation as an employee ownership labour-sponsored venture capital corporation under the Labour Sponsored Venture Capital Corporations Act? Do you support the proposed investment in the corporation for the purpose of reinvestment in your employer as outlined in the business, human resource and investment plans to be filed under the Labour Sponsored Venture Capital Corporations Act? If a majority of employees' votes are cast in support of these questions, the corporation formed by the employees can apply for registration as an employee ownership labour-sponsored venture capital corporation with the Ministry of Revenue.

The approval process requires that a corporation formed by the employees of their employer's firm will be registered by Revenue as an employee ownership labour-sponsored venture capital corporation once the Employee Ownership Advisory Board has evaluated the proposals; the independent adviser has provided the employees with advice relating to the proposed investment; employees are in receipt of a disclosure document; once the Ontario Securities Commission has issued its final receipt of that document; the corporation has received approval through the order in council by the Lieutenant Governor in Council; the employees have voted in favour of purchasing the employer's firm and have met any other registration requirements as provided for in the bill with the Ministry of Revenue.

The board will have equal representation from business, labour and government, as has previously been described, and the board's recommendations are submitted to the Minister of Industry, Trade and Technology prior to referral to cabinet for approval by an order in council by the Lieutenant Governor in Council. An interim board is in operation until such time as the permanent board is established.

Eligible investors, as have been described, are Ontario residents who are eligible employees of the employer firm. An eligible employee is described as any individual who has been employed by his or her employer firm on a

continuous basis for an average of at least 15 hours each week, either on a year-round or regular seasonal basis.

The tax incentives are: Ontario will provide a 20% tax credit on the first \$3,500 invested and 30% on the next \$11,500 invested annually to provide for a total of \$15,000 in any year. There is a lifetime maximum limit for tax credits issued to an eligible employee of \$150,000. These amendments are not modified by budget proposals. The unused portion of the tax credit is not refundable but, in the case of the employee, ownership components can be carried forward for tax credit purposes for the next five succeeding years.

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The business must be a taxable Canadian corporation or Canadian partnership that is active in any industry in Ontario and the business must pay at least 25% of its wages and salaries to employees whose ordinary place of employment is a permanent establishment in Ontario.

An employee ownership labour-sponsored venture capital corporation is permitted to invest in only one eligible business and that eligible business is the employee's place of employment. An employee ownership labour-sponsored venture capital corporation may invest in newly issued or existing shares of a corporation or new or existing ownership interest in a partnership.

At least 80% of the employee ownership labour-sponsored venture capital corporation's equity capital must be invested in an eligible business within one year after the fiscal year in which the class A shares were issued to the shareholders of the employee ownership corporation, and this level must then be continuously maintained.

Where there is no outside investor, the employee ownership corporation must acquire over 50% of the issued and outstanding shares or ownership interest of an eligible business. Control must also be acquired within the time period specified in the approved employee ownership labour-sponsored venture capital corporation business plan.

If the purchase of the eligible business involves investment by both outside investors and the employee ownership corporation, then the employee ownership labour-sponsored venture capital corporation must acquire at least 40% ownership. The key point here is that, on all occasions, control of the eligible business must change hands. Shares of the employee ownership corporation must be valued annually by an independent, qualified person, with quarterly updates by management.

Any investor who holds shares for less than five years will be subject to recapture, unless the redemption within the five-year holding period is as a result of death, the shareholder becoming permanently disabled or suffering long-term illness, has reached the age of 65 or retires and has held the shares under those circumstances for a minimum of two years or has been involuntarily laid off from the corporation.

Transfers within the five-year holding period result in recapture of the credits unless those conditions previously described exist or unless the shares are being transferred, to be held in a registered retirement savings plan. The recapture will be based on the lesser of the fair market

value of the shares at the time of redemption or transfer or the original tax credit.

The capitalization limits of the employee ownership labour-sponsored venture capital corporations are a minimum of \$25,000, with the upper limit being determined and described by the business plan as approved through the order in council by the Lieutenant Governor in Council. If any additional capital is to be raised by way of secondary subscription, approval must be obtained from the Lieutenant Governor in Council before that action is taken.

The key summary features of the employee ownership labour-sponsored venture capital corporations are:

An Ontario tax credit of 20% on the first \$3,500 and 30% on the next \$11,500 of investment invested annually, with a lifetime limit of \$150,000.

An eligible investor is an employee of the employer corporation.

An eligible business must be active in any industry in Ontario that is paying at least 25% of its wages and salaries to workers who are ordinarily employed at permanent establishments in Ontario and, with the employee ownership labour-sponsored venture capital corporation, there is no matching tax credit.

That concludes my presentation.

The Chair: Thank you, Mr Evans. Maybe you can stay there, because there will be questions coming up very shortly, but we have one more presenter, actually, Mr Gerry Sholtack. He's the director of legal services for the Ministry of Revenue, and he's going to give us a short explanation on the amendments to the bill.

Mr Gerry Sholtack: Good morning, ladies and gentlemen. You all have a package of the amendments that are being tabled by the government. The first two pages constitute an index of those amendments. They are indexed by number. However, they can be categorized under general headings which have been touched on today. The bulk of the amendments deal with the implementation of the investor protection code.

If I might go through them, the investor protection codes amend subsection 1(1) to provide definitions; that's item 2 on the index. Section 1 provides that shares of a specified employee ownership corporation are not subject to the Securities Act, and when the corporation will cease to be a specified employee ownership corporation. The purpose of this amendment is to take the EOs out of the operation of the Securities Act and, as we'll see later, provide for the making of an investor code regulation under the act itself, under Bill 150.

There are provisions to delete, as I said, the reference to the Securities Act; that's item 6 on your index.

Item 35 is an amendment to section 32. The minister is authorized to make inquiries to ensure compliance with the act and may designate the Ontario Securities Commission or the director to make such inquiries, and on that designation they have the same powers as provided under parts III and VI of the Securities Act.

Section 34, which is 36 on your index, provides for higher fines for false and misleading statements in disclosure documents.

Item 37 on your index provides a number of amendments: additions to the act authorizing the minister to apply for a court order to ensure compliance with the act; permitting the minister to issue cease-trading orders on the recommendation of the director; or if the minister is entitled to revoke registration this permits the securities commission or the director to prevent the further sale of shares should there be problems with a particular EO.

Other changes authorize the minister to designate the securities commission or director to exercise her powers under 34.1 or 34.2, which are the changes I just alluded to. There are provisions for an appeal from the order of the director or the securities commission. Also, 34.5 will require the provisions of a disclosure document to be given to purchasers of shares. Section 34.6 provides for civil remedies to investors who suffer loss due to misrepresentations contained in disclosure documents.

Section 35.1 extends the immunity provisions in the act to the OSC and the director and other designated persons performing regulatory functions. In section 35.2 no person will be liable to another for complying with the act or directions, decisions, orders or rulings under the act.

The amendment to section 37, which is 39 in your index, authorizes the making of regulations to implement the investor protection regime applicable to EO. It's an extensive amendment, and that will allow all the various authority necessary to allow the cabinet, on the advice of the Minister of Financial Institutions, to implement the provisions of the investor protection regime.

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Section 48 is the equivalent provision for the LSIFs. That in fact is an amendment to the Securities Act and will permit the cabinet, on the recommendation of the Minister of Financial Institutions, to provide for regulations to implement the investor protection code for the LSIFs.

The second main area covered by the amendments deals with the voting procedures to be followed by the EO before it is registered under the act. The main provision is section 4, which provides specifically for the questions to be asked of the employees, whether they approve the registration of an EO and the proposed investment in the employer corporation.

The vote will be conducted by the Ontario Labour Relations Board based on its own procedural rules. There are requirements to be met before the vote will be ordered, basically that the employees receive the disclosure document, that the independent adviser has given his or her advice and that the proposed investment has been reviewed by the employee ownership advisory board. Those three conditions have to be satisfied before the vote can be held.

The Ontario Labour Relations Board will also be able to determine who is an eligible employee in the case of a dispute. As well, the concept of "employee group" is deleted as being unnecessary, and there are a number of changes consequent to that contained in the package whose purpose is to strike out the words "employee group."

Finally, subsection 5(1), which is number 4 in your index, provides for the registration of the EO if at least 50% of the votes are cast in favour of the application and the proposed investment.

There are a number of other areas of amendment. Three amendments relate to the change in case of decline of share value. The amendments provide that where the fair market value of the shares of an EO declines below its issue price any recapture that becomes necessary will be reduced proportionally, and that applies both to the EO and the LSIF shares.

Another area involves amendment with respect to permitted share transfers within the five-year holding period. There are two amendments there. Essentially, class A shares can be transferred within the holding period if the recapture has been paid. That's another option that's added, that if an individual wishes to transfer the shares within that five-year period, he must pay the recapture. Then he can transfer it.

There are also two amendments to clarify the role of the employee ownership advisory board. Clause 26(1)(c) provides that any change of control by an EO within the five years of a share issue must be approved by the board and the Minister of Industry, Trade and Technology. Also, under clause 42(1)(a) the board will review the entire proposal made by the EO to determine whether it's equitable and commercially viable over the contemplated time periods.

As well, a number of amendments relate to the removal of restrictions on investments by a labour-sponsored investment fund. They broaden the ability of the labour-sponsored investment fund to invest in non-voting as well as voting shares. They also permit investment in secured investments that are secured by a floating-charge debenture.

As well, the labour-sponsored investment fund would be entitled to majority ownership interest in an eligible business so long as it does not control the eligible business. With shareholding and non-voting shares, it's possible for a labour-sponsored investment fund to have majority ownership. As long as it does not have control, that keeps it on side the act.

Finally, there's a list of miscellaneous amendments. Clause 6(1)(h) is the removal of the requirement that employee ownership be in the name of the corporation. There is removal of any reference to a federal tax credit for EOs, as there is no matching credit.

Subsection 13(1) will require the LSIF to have a permanent establishment in Ontario. Subsection 27(4) clarifies that a reduction in stated capital of LSIFs is not to include share redemptions and that any recapture of tax credits on such redemption does not include any federal tax credits.

Section 28 eliminates interest on refundable penalty imposed on LSIFs which fail to meet minimum required level of eligible investments. Section 29 clarifies that no interest is payable on recaptured tax credits, and for amounts deemed to be taxed under the Corporations Tax Act, it only authorizes the minister to use the legal remedies available under that act to enforce collection and debt.

Finally, there's clarification that ensures that under the Income Tax Act, 1991 is the first year for which credits are eligible for investments in LSIFs.

The Chair: You might as well just keep a seat there; Mr Evans, perhaps you can come up to the front. The minister's been called away on another issue. Would Mr

Whitehead and Mr Marrs take a seat up here. Please put your names up there so we can start rotation on questions and we don't have to keep coming back and forth to the mike and lose time.

We'll start off with the third party. It looks like we've got a total of about half an hour, so we'll divide it up. Let's call it 10 minutes each. If you don't take the full 10 minutes, we'll save the time until the end.

Mr Gary Carr (Oakville South): First of all, thanks to everyone for coming to the presentation and also to those of you who participated earlier in the week in our informal one. I appreciate it very much. I guess I'll throw my questions out to whomever; I'll start and just throw them out.

The cost of the program is going to be \$250 million; that is what I think John said at one point. That's based on how many companies, John, and what figures did you base that on? Did you start with the \$250 million the Treasurer gave you or did you work back and say these are the number of companies you want to help?

Mr Whitehead: In a new program, it's always difficult to estimate precisely what the costs are. I believe what I said, or I hope what I said, was up to \$250 million. It really depends on the takeup of the program. At this stage it would be hard for us to pin down a precise number. Unfortunately, there's not a lot of experience rating even within the country on programs similar to this. A number of provinces have the equivalent of our labour-sponsored investment fund component, but the employee ownership component, which is likely to be the biggest part of the program, has virtually no experience rating in the country that we can rely on at this stage.

We've done our best to estimate what we think will be a reasonable number. We're saying up to \$250 million at this point. I'd argue that the ebb and flow of the economy and other external factors will also have a strong influence on that number. It's hard to be really precise about it. We've tried to give a dimension to the program.

Mr Carr: That's only the Ontario portion, too. The feds would kick in an equal amount as well.

Mr Whitehead: Yes. The federal government's share is over and above the costs that we've noted.

Mr Carr: In this committee we're used to not having exact figures, because in the economics and finance pre-budget, people are saying it depends. Even our economists obviously are just giving generalities. But again, how many companies do you anticipate would be looking at the program? I can throw that up to anybody. I don't know whether MITT would be better for that.

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Mr Marrs: On the EOs as a planning number, as I said earlier, we looked at the States and when you look at the buyouts they are 4% of the number of ESOPs that have been done. We've looked at British Columbia and they've done about 17, two of which are really employee buyouts. Saskatchewan's done a small number. Most of those have been contracting-out-type situations that wouldn't apply in Ontario.

I guess, as a base, we'd look at perhaps a couple of dozen or 30 companies that would come in, at least go through stage one of the study program, and perhaps half a dozen a year that would come out of that. Depending on who you talk to, that number is either dramatically lower or about right, but I guess it's hard to judge the impact on the taxpayer on this.

Mr Carr: We'll go where it will be judged at the end when we have the definite numbers. Of course, from the taxpayer's standpoint, they'll be looking at the total amount of employees for all the programs through MITT. They judge it on a per-job basis. If it's \$100,000, \$250,000 or \$10,000, they will judge and say it's worth it.

Again, I just want to get an idea of where we are, knowing full well that a lot of our predictions are off. On that, Bob, you mentioned \$25,000 worth of studies. I take it that is not included in the \$250 million maximum we're talking about?

Mr Marrs: No.

Mr Carr: This is from existing funds or new funds that MITT will allocate, and again, that's the—

Mr Marrs: We're in the process of finalizing the allocation and I'm not sure whether that comes—

Mr Carr: But the way it's coming now, it's probably within the existing programs. That money will come from somewhere else within MITT, I take it, right?

Mr Marrs: I'm not sure whether we'll be getting some new funding or whether we'll get part of it in-house or how we'll—

Mr Carr: So you'll be doing about 30 companies, approximately up to \$25,000. Multiply that. That will be additional money on top of the \$250 million. In terms of MITT's time and cost, how much time and allocation—do you have resources of people set aside for this particular function?

Mr Marrs: Again, we haven't finalized the numbers. We're still looking, I hope, to have a couple of people on staff. That will get us started and then we'll gauge from there. I think you're looking at a relatively small staff.

Mr Carr: With all the figures, I gather we're still very preliminary here with everything, with this whole bill.

Mr Marrs: At MITT we intend to have a small staff and then we'll respond as the demand comes in.

Mr Carr: I'm interested in the criteria. Looking at it from the outside, the biggest criteria we're looking at—just off the top, what will be the most important ones? I may have missed it; you touched that portion. But when you're looking at the company, what will be the biggest factor towards getting money through MITT's standpoint? What will they say? Boy, if they meet these criteria, what will be the—

Mr Marrs: In terms of the initial study?

Mr Carr: Yes, meeting the initial study criteria.

Mr Marrs: Basically, there were three areas. One, do you have a committed employee group? Two, is the firm viable? I guess we'll be able to judge that in a superficial way initially and the study will go some way to addressing

the issue there. Do you have a willing seller? Is there a time available to structure an appropriate deal that ensures employees have a good chance of making this a success?

Mr Carr: The whole program is based on the financial aspect of it. I know you've put a plan together for human resources, but the reason most of these people would get money is from the financial standpoint, because I know they're going to reach human resources' criteria. On that, you mentioned—again, I'm not sure who talked about the human resources plan. I'm thinking from the employee's standpoint. It does touch on labour and I know there are not too many people here from labour, but I guess through some of the regulations, maybe you could help us with this.

As an employee, I will be told that this is the situation we're looking at. This is the human resources side. I take it by human resources the plan will mean we're going to have to reduce to 20 employees or four or so on. That would be one of the big criteria, so that people will be voting on something, knowing full well we have 50 employees now; the business plan is 20. Everybody, all 50, would be voting on that. I see the heads nodding. That's true? Okay, good.

What relates to that, I take it right now—again, it's through the labour board. Is it a secret vote? You mentioned it will be the equal ones. Secret vote? Heads nodding, way in the back.

The Chair: Could you please answer, because Hansard has a hard time picking up nods. Mr Evans has some answers to the question, if you'd give him a chance to answer also.

Mr Evans: You made a comment earlier about the early nature of the program. The minister, in her opening statement, did indicate that we had issued tax certificates for 1991 to investors in Spruce Falls and to investors in Working Ventures. Spruce Falls is an employee ownership corporation; Working Ventures is a fund. There were 995 investors in Spruce Falls and they invested in the order of \$9.6 million and received tax credits in the order of \$2.5 million. In the case of Working Ventures, there were around 10,000 investors. They invested in the order of \$28.3 million and received tax credits of \$5.6 million.

Mr Marrs indicated that, yes, it is tentative. It is early and it's obviously going to be decided on the size and the nature of the businesses that come forward, whether they're labour-intensive or whether they're capital-intensive businesses. Those forecasts are extremely difficult to make, but we can share that factual information on the 1991 tax year.

Mr Carr: So we can get the details on Spruce Falls when, immediately?

Mr Evans: Spruce Falls, 995 investors; \$9,648,100 invested; total tax credits paid, \$2,552,338.

Mr Carr: But I was thinking in terms of—and I know it came through some of the disclosures—the business plan aspect of it. When will be that be made available?

Mr Evans: That was done through the Ontario Securities Commission, so I believe that information is on public record.

Mr Carr: Do you know, offhand, what the business plan calls for? Are they going to keep 995 employees? What are we looking at? Does anybody know?

Mr Evans: I do not know of any details that talk to a running down of the workforce at Spruce Falls.

The Chair: Mr Carr, I've got to carry on to Mr Kwinter.

Mr Carr: Time goes by so fast.

Mr Monte Kwinter (Wilson Heights): Thank you. Again, I don't know who's going to answer this question, but I just want to talk about a couple of general things.

The whole premise behind Bill 150 is to encourage employees and organized trade unions to invest in companies where they can either have ownership or provide venture capital. By its very nature, venture capital is risky. I assume there's unanimous agreement that these will be risky ventures to some extent and there's no guarantee they will all succeed. Some will survive; some will fail.

There's a provision that says there will be an Employee Ownership Advisory Board—and I underline the word “advisory”—and MITT will also take a look at the viability, the human resources, the financial implications and make recommendations to cabinet as to whether or not a particular proposal be registered under this act. Even if they do make the recommendations, there are some that will fail.

My question is this: What happens if, in a one-industry town, a corporation is in trouble or whatever—it doesn't have to necessarily be in trouble, but it could be—and the employees want to use this particular vehicle to finance an employee ownership. The advisory board and MITT suggest that it is not viable and yet these employees are determined that they want to save their company and they want to get ahead with it. What recourse do they have?

Mr Marrs: I guess the simple answer is they could proceed without tax credits.

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Mr Kwinter: All right. Then that leads to the next question. Why would they not be entitled to the same tax credits as someone who may have gotten the endorsement of the advisory board and MITT and fails? They may succeed, where, for whatever reason on paper, it doesn't seem they're going to succeed?

Mr Whitehead: I guess there probably is an opportunity to appeal the decision of the board, but it would seem to me that if the board ruled that it was not a reasonably commercially viable proposition, it would do so on the basis of very strong evidence. It would be unlikely, I would think, that you would have an independent adviser passing on it. You may have some difficulties in the OSC receipting the disclosure document. You may have a number of reasons. I guess it would depend on the situation, but it would seem to me an unusual circumstance where you would have all those bodies determining that the thing was fundamentally not viable and yet the employees being committed to proceeding.

Mr Evans: If I may, commercial viability is an important aspect of this program. Among other things, the government did not want to be inducing people, through the use of tax credits, to invest money since this is an invest-

ment of after-tax dollars into firms which had no reasonable prospects for success. Among other things, this program comes out of the government's desire to assist in a variety of ways the restructuring and growth of the economy. That objective wouldn't be well served by permitting tax credits in respect of firms which, for example, had no customers, or firms which were so badly saddled with debt that there was no prospect for immediate success or even success over the long term.

So the commercial viability aspect of the program becomes very important in the overall policy. It's a question of the appropriateness of government providing tax credits which may induce people to make investments which wouldn't otherwise make any sense.

Mr Kwinter: Without getting too political and without mentioning companies, there are several companies in Canada that are surviving even though they have no commercial viability, but because of government policy it is deemed essential that they keep operating because the alternative is worse than the losses they are incurring. There's every possibility that we could have that kind of situation, where it may be deemed advisable, for whatever reason, political or otherwise, to keep that company going. What I don't understand is why there would not be the same tax credits for those people who are investing.

Mr Evans: Yes, it is common policy that an industry or a company needs to be supported because the consequence of its failure would be more dramatic for a community, but that does not have to be through an employee ownership vehicle. Indeed, the whole point of the structure of the safeguards that are described in this bill in relation to the advisory board and the role of the Ontario Securities Commission and the Ministry of Revenue is geared towards investor protection, the protection of employees in what might otherwise be a fairly difficult period in terms of the employment decisions they are being invited to make. Bill 150, in relation to employee ownership, is not intended to be the only mechanism whereby governments make investments in essential industries, and the mechanisms, to answer your first point, are there as safeguards.

There is another point that you made in your opening comment, and that was in relation to employees and trade unions making investments. I want to make sure that I was clear in my own presentation, that although the trade unions are the people who may devise and operate the funds, the opportunity for investment in funds is available to any resident in Ontario. It is not a closed opportunity to invest in the funds; it is an open one.

Mr Kwinter: I understand that. Can I get a clarification on something that was said about, “The venture capital fund cannot own the company; the employee ownership must own the company”? In the employee ownership vehicle, they have to have at least 50%, unless there is an outside investor, and then they have to have 40%. Would you explain to me how that works, how they get control if there is one entity that has 50%, another entity has 10% that is not related in any way to the employee ownership group and the employee ownership group has 40%?

Mr Sholtack: I think in the circumstances of the provision of the act, as long as there is a change of control, that is sufficient. The employee ownership venture capital corporation plus the other investor together have more than 50%, so there would be a change of control. As long as that happens, then the act is satisfied.

The example of that is the Spruce Falls situation, where you had both an employee ownership group plus another investor. Together there was a change of control, so the two organizations would work together to control the employer corporation and that is sufficient for the act. There's a flexibility built into the act, so if there is a significant outside partner, then the EO doesn't have to have the burden all on its own. It can operate with another outside person as long as between both of them there is a change of control.

Mr Kwinter: Can I direct a question to you about the general philosophy behind the fact that to have an employee ownership, all you have to do is have an employee group? They don't have to be a union; they don't have to be organized; they just have to be a group.

Mr Evans: That's correct.

Mr Kwinter: To have a venture capital fund, you must be a trade union.

Mr Evans: You must be provincially recognized, yes.

Mr Kwinter: Why would the same provision not apply where a group—to give you an example, the employee group at Dofasco—may decide that it wants to set up a venture capital fund? Why would they be excluded?

Mr Evans: The design of the fund side of the legislation is intended to parallel the federal legislation to ensure that there are federal matching credits. That requirement has been proved, as far as we are concerned in Ontario, by the fact that we could not secure federal matching credits for the employee ownership side when we took that broader set of criteria forward.

I understand under the federal labour-sponsored venture capital corporation they don't have a particular distinction that describes the funds separately from the employee ownership side; they are merely applying their criteria on size and who is in fact managing the proposal. In that case, our legislation, which did not have a size limit on the employee ownership side and did provide for that more general application or description in terms of the employee group, failed the federal test and did not attract matching credits. We believe the decision in terms of the design of the legislation on the fund side was the appropriate one to ensure that we did get the matching credits.

The Chair: Do we have more questions?

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): For the information of the committee, I just wanted to clarify, or at least point out, that although this piece of legislation is unique because it only operates within Ontario, there are other jurisdictions within Canada that have similar legislation. I was wondering if Jim or someone else on the panel here could elaborate and give us just generally some comments with regard to how this legislation is similar to other jurisdictions, how it is work-

ing in other jurisdictions and, more specifically, how this would be perceived from a securities regulatory regime perspective.

Mr Evans: Gerry, can you answer that? We invite Joe to address that. Joe Lambert is the project manager involved with the implementation of the Ministry of Revenue administration of this bill.

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Mr Joe Lambert: That's a very difficult question to answer, Mr Johnson, but I'll try my best. A number of other provinces have similar programs. Those programs also involve employee ownership components as well as the so-called fund components. British Columbia, for example, has an employee ownership component and a fund component. Most recently a Working Opportunities fund was created, after the beginning of the new year. It's a labour-sponsored venture capital corporation fund, the only one, I believe, that's in existence.

I also understand that there are three employee ownership type of funds in British Columbia. Saskatchewan has two types of venture capital corporation funds. One is a so-called type A fund, and that's equivalent to our labour-sponsored investment fund. The so-called type B funds are the employee ownership counterparts to our employee ownership venture capital corporations.

I understand that in Saskatchewan there are no fund type of corporations established to date. We have approximately five, I believe, employee ownership type of funds established there. In Manitoba we have one fund established, and it's referred to as the Crocus fund. That, I believe, is equivalent to the labour-sponsored investment fund type of venture capital corporation.

Quebec has a fund referred to as the Quebec Solidarité fund. It is a labour-sponsored investment fund type of venture capital corporation. It's been in existence since 1983 and has raised almost \$500 million in an equity capital.

With respect to the jurisdiction of the securities regimes that are in place in those jurisdictions, I understand that all the provinces have securities acts governing the operation, the provision of investor protection and the other regulatory concerns. They're regulated in that manner. Ontario is slightly distinct in that we have the employee ownership component to be regulated under Bill 150 as opposed to under Ontario's Securities Act. The labour-sponsored investment fund will be regulated under the Securities Act as administered by the Ontario Securities Commission.

With regard to the employee ownership labour-sponsored venture capital corporations, as I said, the investor protection provisions will be taken care of through a regime that's being built into Bill 150 through regulations. That also will be mainly administered by the Ontario Securities Commission. So we're unique, in a sense, with respect to the employee ownership side of things. We're consistent with respect to the labour-sponsored investment funds in regard to how the other provinces administer investor protection.

Mr Johnson: Would you say that these programs have been successful in these other jurisdictions? I guess I would have to define "successful." Have they raised or put

into the economy the venture capital that was anticipated? Would you know?

Mr Lambert: With respect to the anticipated venture capital, we don't have information on what was anticipated. We do have some information on the amounts that have been raised. So it's difficult to give you a comparative—

Mr Johnson: That's why I say it's hard to define success.

Mr Lambert: British Columbia has raised, with respect to the three EOs we know about in British Columbia, about \$4.7 million. Those were the objectives. With respect to Saskatchewan, I understand the information we have is that about \$600,000 was raised by the five fund-type corporations that are in existence there, and as I mentioned earlier, in Quebec they've raised approximately \$450 million since the inception of that particular fund. That's the senior fund in the country.

Mr Johnson: That's great.

Mr Lambert: Getting back to your question, Mr Carr, as to the numbers that were anticipated, the \$250-million takeup is fairly consistent in relation to—it's actually below the amount that was raised in Quebec. That's the senior fund we have as a guidepost. So we're well within that \$500-million capital to raise.

The Chair: Ms Caplan had a short question.

Mrs Elinor Caplan (Oriole): It's a supplementary. It really is on the use of language. Traditionally the term "venture capital" is for new and emerging firms, as opposed to this legislation, which is for the purpose of buyout of existing companies. How do you differentiate in that kind of language between existing venture capital funds for one purpose and this legislation, which is not traditional as far as venture capital is concerned but would be more considered as a bailout fund or a buyout fund?

Mr Whitehead: I prefer "buyout" a lot.

Mrs Caplan: Okay, but it's not traditional venture capital.

Mr Whitehead: With respect to the EOs, no, it's not really traditional venture capital. It is all brought forward under the one umbrella title for the act, which is labour-sponsored venture capital corporations—I can't remember the rest of it.

I take your point on the language. The employee ownership aspect of this credit program is very definitely single-purpose. There is, however, the other component of the program, which I think the term "venture capital" does describe relatively accurately, which is a disbursement of funds among a range of small and medium-sized businesses throughout the province.

I don't know if you want to add to that, Joe.

Mr Lambert: In defence of the name of the program, we're not alone in perhaps being guilty of a misnomer in that BC's legislation is called employee venture capital corporations, and it has both components under that mantle; in Saskatchewan as well, I might add.

Mr Carr: In the EO, what would be the average number of employees you're anticipating in the company? Do you say 50, 100 average?

Mr Marrs: I'm not sure. I would think the most likely targets will be companies in smaller communities where they're the major employer, or retiring owners. The retiring owner situation could be a wide range of employment levels. It could be fairly small, but in most smaller communities in Ontario you are looking at employment of 100 to 500 people.

Mr Evans: This is intended to be an act of general application, so it could be anywhere from that small business where the owner is retiring, which could be five or six, to—there are no top size limits on the EO side, so it could be relatively substantial industries in one-industry towns that are affecting the viability. There is a full range of possibilities. It is certainly not intended to be just saviours of communities. There are opportunities here for emerging industries. They may not be venture capital in terms of the startup connotation of that name but industries, as we were referring to in our presentation, that we're talking to positioning in relation to globalization. If we have a small to medium-sized company that has significant prospects, then the purpose of this act is to encourage that.

Mr Brad Ward (Brantford): I recognize the time, Mr Chair, but briefly, just so we're clear, even though it's Bill 150, there are the two components to Bill 150: the venture capital aspect, which is sponsored by labour organizations or groups that anyone can contribute to, and then the other aspect, which is employee ownership. I hope as this committee continues its deliberations that we don't confuse the two, because they are two separate, distinct aspects of the bill itself, even though the bill's name is all-encompassing. I hope that's clear, Mr Chairman, so we don't enter into some confusion about what this bill is.

The Chair: Thank you, Mr Ward. I would like to thank all of you for your presentation today. It was quite informative. It was a lot to absorb. Good thing we've got Hansard so we can read over some of the answers you've given. You would all be available to members of this committee in your offices for any questions in the future?

Mrs Caplan: Will we have an opportunity to place additional questions on the record at another time?

The Chair: I'll take the direction of the committee here.

Mr Kimble Sutherland (Oxford): What do we have scheduled for this afternoon?

The Chair: I have nothing on the schedule for this afternoon. Does the committee feel they need to ask more questions?

Mrs Caplan: I'd like some questions, if that's acceptable.

Mr Carr: I do, but I don't necessarily need them to come back. If they hadn't planned to, I'm sure they have other things they're looking at and saying, "Oh boy, all the things I was supposed to do this afternoon." I would be quite willing to put them in writing.

The Chair: The other thing, Ms Caplan—and this is why I wanted to call a subcommittee meeting—is to have witnesses come forth next Thursday. Maybe after some of the witnesses come forth, there will be additional questions. Certain questions will be raised by the witnesses that we can take a look at.

Mr Sutherland: We could certainly do it that way, if you want: have the staff come back after the witnesses for some more clarification.

Mrs Caplan: The only point I would make is that as long as there's an opportunity for questions to be placed and have the staff either here to answer or commit to answering in writing, I'd be satisfied.

The Chair: That's why I said a telephone call or a letter to any of these people.

I'd like to thank you again for appearing. This committee is adjourned for the day. Maybe we can have a quick sub-committee meeting for a minute or two if there's not a vote.

The committee adjourned at 1202.

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- *Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Ms Ward

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Clerk / Greffiere: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service



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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 14 May 1992

Standing committee on finance and economic affairs

Labour Sponsored Venture
Capital Corporations Act, 1992

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Jeudi 14 mai 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur les corporations
à capital de risque de travailleurs



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 14 May 1992

The committee met at 1008 in committee room 1.

LABOUR SPONSORED VENTURE CAPITAL CORPORATIONS ACT, 1992

LOI DE 1992 SUR LES CORPORATIONS À CAPITAL DE RISQUE DE TRAVAILLEURS

Consideration of Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments / Loi prévoyant la création et l'inscription de corporations à capital de risque de travailleurs aux fins d'investissement dans des entreprises ontariennes admissibles et apportant des modifications corrélatives.

The Chair (Mr Hansen): Good morning. I'd like to welcome you all here to the standing committee on finance and economic affairs. This morning we're having public hearings on Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments.

WORKING VENTURES CANADIAN FUND INC

The Chair: The first group we've got on, for 10 am, is Working Ventures Canadian Fund Inc, Mr Ron Begg, president. Would you come forward, please. On your presentation, you have one-half hour, and in that one-half hour perhaps you can leave some time near the end within that half hour for questions from the three parties.

Mr Ron Begg: By all means.

The Chair: Thank you, and welcome to the committee.

Mr Begg: Good morning. My name is Ron Begg and I'm president of Working Ventures Canadian Fund. I'm also chair of the government relations committee of the Association of Canadian Venture Capital Companies, but I'm appearing before you this morning in my capacity as president of Working Ventures.

With me today is Jim Hall. Jim is the vice-president, investments, at Working Ventures.

We have three objectives in appearing before you this morning. The first is to communicate our strong support for the legislation, for Bill 150. We've had an opportunity to participate in the consultation process, principally with the four ministries that have been involved. We have had close cooperation, and we've had an opportunity to have some experience with this proposed direct legislation and we strongly support it.

The second purpose is to share with the committee our experience to date. We have had two years' experience with the similar federal legislation and a full RRSP season with the Ontario program.

Our third objective this morning is to share with you. While we strongly support the legislation in its current

form, we would bring to the attention of this committee two important refinements which we would ask be considered at the third reading stage.

There should be on the table before you a letter from Jim McCambly, who is president of the Canadian Federation of Labour and also chair of Working Ventures Canadian Fund. On behalf of the Canadian Federation of Labour, Jim has confirmed the support of the CFL and that of the Ontario council of the CFL that recently passed a resolution last month at the Ontario convention of strong support for Bill 150. Also in front of you is a submission prepared by Working Ventures, which again confirms support for this legislation and proposes the two refinements I spoke of.

By way of background, Working Ventures is the first national labour-sponsored investment fund to be established under federal Bill C-18, which was enacted December 18, 1991. We are also the first labour-sponsored fund to be pre-registered under Bill 150 by the Minister of Revenue, subject to enactment of the legislation and compliance by Working Ventures with this legislation.

In the time we've been in the marketplace with the first labour-sponsored investment fund, we've been breaking new ground with, I think, five different constituencies. I'd like to share with you the experience we've had, which has been very positive. We think that the various constituencies have embraced this concept. We've found general support in the public and in professionals dealing with this new concept.

First of all, we have worked with securities regulators, both with the Ontario Securities Commission in Ontario and with securities regulators in other provinces, and we have found that experience has helped to mould and shape this as a financial product that has the kind of disciplines that have been built into it, at the insistence of the Ontario Securities Commission and other regulators, which make this a product that will very definitely serve the public interest. We think the disciplines that have been imposed by the OSC as part of its responsibility have been very beneficial to making this a better product.

A second constituency is really the financial industry. We have been working closely with all major firms in Ontario. The major brokerage firms which distribute Working Ventures have embraced this concept, and in the month of January this year we had an opportunity to actually visit some 70 to 80 branches in Ontario to help train professional stockbrokers in the investment merits of this product and the various tax implications of this new concept. We found an open mind, a willingness and an interest in this product.

It is being sold by brokers throughout the province, properly, in my view, as part of an otherwise balanced, long-term portfolio. This is not intended as any individual's first or only investment, but rather as part of an overall, long-term

investment strategy. Across Canada now, as I mentioned, and in Ontario, all major firms are offering this product to the general public and to their clients. We have approximately 1,500 brokers across Canada, about two thirds of these in Ontario, who are actually personally selling shares in Working Ventures and distributing these shares to the public.

The third constituency I'd like to mention is our extensive work in communicating with members of the affiliated unions of the Canadian Federation of Labour. As sponsors of Working Ventures Canadian Fund, the Canadian Federation of Labour has arranged for introductions to the leadership and the membership of the affiliated unions, and this has been a particularly exciting experience for us. We've had the opportunity to get out into the union halls, into the conventions, and to put the membership in touch with licensed professionals who can provide the individuals with independent investment advice and bring this product to their attention.

It has been particularly exciting to see the dialogue that this has generated between professionals in the financial community and the membership of the union. There's a high interest in terms of increasing the stake in the free enterprise system by taking advantage of this program, one that has the potential to enhance retirement incomes but at the same time to create employment to add to the general prosperity by helping support companies that tend to generate more in the way in the way of exports and more in the way of research and development.

As you know, some 90% of the new jobs created in this province in the last decade have come from the small- and medium-sized businesses, which are the target of this legislation and the focus of Working Ventures' investment strategy.

The fourth constituency, of course, that we've addressed is the general public. We have been communicating through registered representatives in the major stock brokerage firms and through an advertising program. I'm pleased to report that Working Ventures, which until the beginning of this year had only \$5 million in assets under administration, has now increased our assets to \$43 million. With only \$5 million in assets, we felt that pool was too small to properly diversify, but now we are swinging aggressively into the investment mode, and subject to enactment of this legislation will begin making investments focused in Ontario.

Of the \$43 million, in this most recent season we actually raised \$29 million in Ontario, and in total across the country we have 15,000 shareholders now, of which just over 10,000 are residents of Ontario.

The shares were initially offered March 1, 1990, at \$10 per share, and the net asset value per share, which is published in the financial press on a daily basis, now stands at \$11.81 as of April 30.

The fifth constituency with which we've been communicating in this period are small- and medium-sized businesses, the clients of the investment activities of Working Ventures. As I mentioned, until this year we really felt we couldn't diversify the portfolio, but Jim Hall, leading the investment process at Working Ventures, is now focusing

his energies on Ontario, and Saskatchewan which also provide the matching provincial tax credit.

In the past three months, the investment department has reviewed some 179 business plans. We have narrowed and are focusing on the top 10, and we have two very exciting investment opportunities on the front burner which are presently being reviewed with the Ministry of Revenue to ensure their eligibility.

We believe that Working Ventures is now solidly established. We have built a foundation for growth, and we're competently looking forward to the enactment of the legislation so that we can swing aggressively into the investment mode in Ontario and begin investing in the kind of companies that will create increased employment and generate more in the way of exports and research and development.

Throughout the consultation process, we have had an excellent opportunity to work with the various ministries, and particularly have worked closely with Treasury and Economics, with the Ministry of Revenue, with the Ministry of Financial Institutions, and in the early stages with the Ministry of Industry, Trade and Technology and are very pleased to have had excellent cooperation and opportunity to comment. We know the legislation before the committee now has had some important refinements which we think are in the best interests of this legislation.

We have had an opportunity to review the 42 amendments which we understand were tabled at this committee last Friday, and we're in agreement with these 42 amendments as well. I want to be clear in our support for the legislation as it presently stands, and at the same time I would like to recommend for your consideration two important issues, which are covered in some detail in the submission which has been distributed to you.

I would like to briefly summarize those. The first has to do with the issue in the legislation which places a restriction on the ability of a labour-sponsored investment fund to take a control position in the companies in which it invests. Let me be clear that the objective of Working Ventures, and I believe any LSIF, quite properly is to become a significant minority investor. We are not interested in and we are not in the business of wanting to manage and control companies. For the most part, these situations come about, from time to time, for very good reasons, and it is important in our view that LSIFs have the ability to take control positions. One of the areas where this would occur is in the case of startups, particularly significant and aggressive startups where capital is required well beyond the means of the owner-managers and employees who are participating in the business. In these situations the principals involved recognize that they have insufficient capital and are prepared to part with an equitable split of the equity. If it is not possible for an LSIF to obtain an equitable split of equity, and given that its mandate of course is to make investments on their merits, then there would be a bias against this type of startup, which we think is very much consistent with the objectives of the legislation.

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Another situation that arises is where an investment that has been made in an investee company is in jeopardy for one of two reasons: An additional investment of capital

is required. Take the case where an LSIF has invested perhaps to the point where it takes a 30% interest in the company. The company can run into difficulty either because of unexpected problems or because of unexpected success, to the point where a substantial additional equity infusion is required. It's important that an LSIF have the ability to make these infusions and to do so on an equitable basis.

A third situation is that as companies grow there's always the possibility they will become the target of a foreign takeover. We would like to be in a position in these circumstances to be able to increase our equity stake to prevent the company from falling into foreign hands or into third-party hands, which would not be in the best interests of the investee company, the shareholders or the employees.

We would urge the committee to consider eliminating the restriction on majority control, or failing that, if the committee decides not to do that, we would urge that the legislation be enacted to provide broad ministerial discretion to allow majority control in those circumstances where the situation is consistent with the spirit and intent of the legislation.

The second refinement to the legislation we would urge you to consider is with respect to the investment timetable restriction. The original legislation required that 70% of capital raised be invested within 48 months. The legislation before us now has been amended to call for 70% being invested within 24 months. We would urge the committee to phase this in over a longer period of time. The federal and the Quebec legislation require that 60% of capital raised be invested within 60 months. We think that the federal and Quebec and Saskatchewan limit of 60% in the case of the dynamic Ontario market could be exceeded. The target requiring 70% invested in the dynamic Ontario market can be achieved, but we would urge that rather than having a 24-month objective this be phased in between 24 and 48 months, so that 70% of capital raised is invested at the end of the fourth year after the capital has been raised.

In summary, we think our experience to date has clearly demonstrated, to us at least, that the general public, the membership of affiliated trade unions and the financial community have embraced the concept. We think the experience with the regulators and financial community has developed a product that has the disciplines such that the public interest will be served and the objectives of the government in terms of increased employment will be achieved.

I'd be very happy to take any questions from the committee. You can direct them either to myself or to Jim Hall.

The Chair: Okay. Mr Evans here would just like to ask one question on your recommendation. A little bit of clarification for the committee here.

Mr Jim Evans: Mr Begg, there is a clause in the existing act which provides for 12 months for control and broadly corresponds in terms of its reasoning or design with the points that you have outlined. Are you specifically looking for a longer time frame, or for the removal of any time frame in relation to that clause?

Mr Begg: I would look first of all for elimination of the requirement altogether, if that's possible. That would be our conviction: that the legislation would be best served by that.

Failing that, I would urge broader ministerial discretion, both in terms of the 12-month timing and also with respect to those circumstances defined in the legislation where the minister can exercise discretion. I think the minister should not be bound to the rather short list of crisis situations where discretion could be exercised. I believe there are circumstances where the minister could review a transaction and say, "This is very much in the spirit intended in the legislation." So very broad ministerial discretion I think would be appropriate.

Mr Evans: Okay. Thank you.

Mrs Elinor Caplan (Oriole): In your experience with investments by individuals, one of the concerns that has been expressed to me is that I understand the Ontario Securities Commission now will have some authority within this legislation to ensure that individual investors will have the information they need so that they can be aware, be fully knowledgeable, of the risk. Are you satisfied that the provisions are strong enough within this legislation to protect the individual who otherwise might not know or understand or have advice from a knowledgeable source?

Mr Begg: Yes, I believe that the process that has been put in place by the OSC from the beginning has ensured that the disciplines have been built into this as a financial product. We're being held, I believe quite properly, to the strictest accountability, as required by the Securities Act. Our prospectus is, I believe, a very fulsome description of the potential rewards, but certainly details the additional risks that are associated with this financial product. It has been required that this product only be offered to individuals who have the proficiency requirement to sell other securities and that it be done in the context of the full know-your-client regulations of the securities commission. This is our third year selling under the prospectus that discloses this information.

In addition to this, we make considerable effort to get out into the financial community to train professional brokers on the merits of this product, and we're very clear, in doing this, to position the product as one which should be sold only as part of an otherwise balanced, long-term portfolio.

Mrs Caplan: Thank you.

The Chair: Mr Phillips, do you have any questions?

Mr Gerry Phillips (Scarborough-Agincourt): No, sir.

Mr Gary Carr (Oakville South): Thank you very much for your presentation. On page 1 you say Working Ventures has now swung into an investment mode. You go on to say that as soon as these are accomplished and Working Ventures complies with the requirements of the OSC, "We will aggressively pursue investment opportunities in small and medium—"

I think as you are probably aware, the bill will pass. What are your plans now in terms of aggressively pursuing? Maybe you could just give us a little more detail of how far you are at, what you're looking at doing, companies and so on.

1030

Mr Begg: By all means. Our focus has been on communicating with the financial community, with small and medium-sized businesses as to the investment criteria which Working Ventures has established, consistent with the legislation. We've done this in a number of ways. We are working closely with lawyers, accountants, bankers who are known to us, who are active in the Association of Canadian Venture Capital Companies, but beyond this we have made every opportunity through the press to make business owner-managers aware of the investment criteria.

A special means of getting deeply into the community is that we've had an opportunity to get out into smaller centres throughout the province, to train licensed brokers not only in the merits of this as an investment but also to draw to their attention our investment criteria and to say: "You have clients in the community who need equity capital for growing businesses. Here are the criteria. We invite you to bring forward investment proposals." Those have started to come forward.

We've begun to review those. Jim Hall, our vice-president of investments, a thoroughly experienced investment professional, has begun to review these investment proposals and to go through the process with, the buzzword in the industry is, due diligence. Typically, "due diligence" in the case of private equity investments is about a two- to three-month process, where you get in and meet with the owner-managers, you get out and talk to the employees of the company, to the competitors, to the suppliers, to the customers, to understand that business so that you're in a position not only to make a proper investment but also, after the investment is made, to help add value to that investment.

This process is well under way. We do have some interim restrictions that have been detailed in an order by the Ontario Securities Commission, which we, of course, are respecting during the interim period, which really expires June 30. This interim order was in anticipation of consideration of this legislation by the Legislature, and as soon as the legislation is enacted, we have several requirements which we've agreed to with the OSC. Once those have been satisfied, we will then swing in to the investment mode.

In the meantime, we have several restrictions. We're not allowed to invest more than 20% of our assets in eligible investments until the order has been lifted. We're also restricted to the equity participation we can take in any one investment during this interim period.

Mr Carr: What are the number of proposals you have now, in terms of numbers? You said you have a few. How—

Mr Begg: We have had 179 of various types come in over the last three to four months. We're focusing our energies on what we call the top 10. We have two very active proposals which we have now taken forward to the Ministry of Revenue and invited its comments on with respect to eligibility. We want to make certain that these are in fact eligible before we proceed further.

Mr Carr: So the top 10, and you've got it narrowed down to two. Was that through your suggestion, or was that the government that suggested—

Mr Begg: No.

Mr Carr: They were the ones that you selected as being the criteria—

Mr Jim Hall: No. The determination as to whether or not they're good investments is entirely up to us. We've gone to the Ministry of Revenue to determine whether or not these are eligible investments under the bill.

Mr Carr: But presumably the government, in anticipation of this, has said to companies, "Oh, by the way, do you know you've got this?" Do you know if these have come through your efforts to get out into the business community and meet with them, or has it been a direct result of the government saying to companies, "This is what we're planning to do," and they may come to you? Do you know if that has been through a government initiative or through your own hard work that you've been doing?

Mr Hall: Sometimes it's difficult to know exactly what the source of deals is. Basically they come from everywhere. They come from people talking to people on the street as to who has capital, and the capital itself acts as a magnet and the deals come our way. If you're plugged into the financial community, the word gets around and the deals start showing up on your doorstep.

Mr Begg: We're happy to have investment proposals brought forward to us by everyone, and at every opportunity, whether we're talking to the press or out at a union hall or meeting with a stockbroker or talking with legislators, we say: "These are the investment criteria. Please send business proposals to us." The reality in this business is that out of every 100 investments you can end up doing one or two because of the variety of proposals that come forward. So we welcome and get them from all sources.

I'm not aware of any of the investments that have come forward being things that have specifically been brought forward by a legislator.

Mr Carr: But with 179 that have come through—and you've just gone through the process of how difficult it is getting in and meeting the suppliers and so on, the initial criteria of how you select them with the limited resources that you've got—how are you making the selections now? How did you come down to those two in the 10, and so on? What were the big factors in that?

Mr Hall: Generally it's an assessment of each and every deal against every other deal that you've ever seen, and basically the process is such that we look at the package. If we're impressed with the package, the next step is to run some numbers to see whether or not the deal makes sense in terms of return on a preliminary basis, and if we feel that the next step should happen after that, it's meeting the people. The majority of deals never get to the meeting-the-people stage.

Mr Brad Ward (Brantford): I'd like to thank you gentlemen for coming before this committee and expressing strong support for this initiative. I share your enthusiasm and I think the majority of the committee will as well.

This is a new form of venture capital to be utilized by our small and medium-sized business people. When a concern is expressed about this initiative by some members of the opposition, it's primarily because it says "labour-sponsored." I'm not sure why that concern is expressed, but this fund is professionally managed. It is a type of investment that not all people will want to take. It is their option and it's open to all investors in the province of Ontario.

What type of response have you been getting when you have discussions with brokers throughout the province? I'm sure there has to be an education, an awareness, I guess, that this type of investment is now available. What type of response have you been getting?

Mr Begg: It has been very interesting and quite exciting because I think it has caused increased understanding, both in the financial community and in the labour community, of the realities of investment and it has created kind of a search for ways that business and labour can work together.

I must say that in some cases, in getting out to meet with brokers, we've been met with scepticism. We sound on the face of it to be an oxymoron, labour-sponsored venture capital. But once we have an opportunity—and sometimes we'll arrive at a brokerage office and there'll be some arms folded and they'll want to know what this is all about. Typically, a fund manager going into a brokerage office might be given 15 minutes or half an hour to present the product. I don't think I've had a meeting at a brokerage office that's gone on less than an hour, because of the interest that this has generated.

One of the things we did when we first launched this fund is, I arranged to introduce the directors on our board who are drawn from the labour movement to leaders in the venture capital community, so there was an opportunity for these different parties to understand one another. I think not only the brokers but the venture capital community have come to understand and appreciate the merits and the bona fides of the investment strategy we're pursuing, and we've been welcomed.

We will be syndicating some of our investments with traditional venture capital firms and, in direct response to your question, I think the best testimony that the brokerage community has opened their minds and is positively supporting this concept is that across Canada some 1,500 brokers are actually selling this product. To put that in perspective, my best estimate is that there are about 4,000 to 5,000 brokers in all of Canada, and 1,500 of them have actually sold Working Ventures, and about two thirds of those are brokers here in the province of Ontario.

I think we're off to a good start. We've established a gold standard and a model that I think will serve this legislation well.

The Chair: I have got to go on to your colleague there. Mr Owens?

Mr Stephen Owens (Scarborough Centre): Thank you, Chair. I simply wanted to make a quick comment with respect to Mrs Caplan's question on the kinds of investor protections, but Mr Begg in his answer gave quite an excellent summary of the protections that they have in place.

I simply would like to add that in terms of the health warnings that will be explicit, these warnings will be in plain language so that people will understand without having to plow through a number of "whereofs" and "thereases" and other types of legalese.

The OSC has worked extremely hard to develop investor protections for something that's, in Ontario, a bit of a new animal, and I appreciate the other work they've done. I also, Mr Begg, appreciate your answer and your understanding of those protections that we've worked hard to put into place.

The Chair: Okay. I'd like to thank you gentlemen for appearing before this committee.

Mr Begg: Thank you very much.

1040

ONTARIO WORKER CO-OP ASSOCIATION

The Chair: The next presenter is the Ontario Worker Co-op Association, and a Mr John Brouwer. Would you come forward, please. We have one half-hour. In that half-hour, if you can make your presentation and leave some time at the end for questions from the three parties here. I welcome you here to this committee this morning. Go ahead.

Mr John Brouwer: Thank you. Good morning, I'm John Brouwer and I am with the Ontario Worker Co-op Association. Thank you for this opportunity to make this presentation.

As the Ontario Worker Co-op Association, we request that Bill 150 be amended to also include worker co-ops. Specifically the definition of organizations which can develop a labour-sponsored investment fund should be expanded to also include an association or federation of worker co-ops, since in its current form the bill won't be available to worker co-ops.

I want to note that worker co-ops are our most democratic form of worker ownership, such that they combine economic development with social justice, since they ensure that the creative business wealth is equitably distributed and stays in the community. Also, by forming worker co-ops, groups which traditionally have been unable to control their economic affairs can collectively control their business activities in a context of supportive community economic development structures. Amending Bill 150 would allow worker co-ops to become a realistic option within the industrial restructuring which Ontario is currently experiencing.

The worker co-op option ensures that workers retain democratic control of their businesses for the life of those businesses. Other forms of worker ownership don't provide that protection, and by not including the worker co-op option, workers will not have that option to develop ownership democratically. Amending the bill to include worker co-ops in all its aspects would allow workers to choose a protection of this democratic business form in the context of buying into their businesses.

Specifically, if we can expand the definition of "employee organization" to include "an association or a federation of worker co-ops," it has the potential to overcome

the greatest obstacle that we've had in developing worker co-ops in Ontario, which is accessing investment capital for co-op initiatives. A secondary concern we had regarding eligible investment is now covered under the government's amendment, item 21, which expanded the definition of the meaning of shares.

I want to note that a worker co-op is a legislatively defined form of employee organization which is contained in the revisions to the Co-operative Corporations Act introduced in December. This amendment would allow worker co-op associations to develop a labour-sponsored investment fund corporation.

Worker co-ops have been strong instruments for job creation in the context of economic renewal and other jurisdictions. Quebec has 220 worker co-ops, employing at least 3,000. Within western Europe, they're very strong, having more than one million people employed in over 42,000 worker co-ops, and worker co-ops continue to provide jobs and create new jobs as part of the restructuring process within the European Community, especially in southern Europe.

Here, Prince Edward Island, Nova Scotia and Newfoundland have instituted worker co-op development programs. By providing a vehicle for channelling investment into co-op development, this kind of job creation potential could be realized for Ontario.

The difficulties in regard to investment relate to a level playing field. The tax regulations, mainly federal ones, provide incentives for investment and joint stock corporations and partnerships which are not available to investment in cooperatives. That's largely because the legislation never considered co-op investment. But this resulted in investors having to take rates of return for co-op investments which are 20% to 90% lower than potential returns in conventional equivalent investments.

This amendment would allow us to work to level the playing field in attracting investment, and we note that the Advisory Group on Taxation of Co-operatives within the Fair Tax Commission has made a strong interim recommendation supporting expanding this definition. At the back we've included a copy of their letter.

There's a large reservoir of socially oriented investment which can be attracted to such an investment fund if from the investor's point of view the opportunities were equivalent. We note that Vancouver City Savings Credit Union's ethical growth fund, which they initiated, now has over \$70 million invested in it.

The Canadian Co-operative Association has identified capitalization as a foundational issue for co-op development over the next decade, and this amendment would allow us to develop a vehicle which can access private investment for co-op development.

Since this is a labour program, we have had discussions with the Ontario Federation of Labour in regard to expanding this definition. They support this expanding of the definition. We also included a copy of their letter at the back of this paper.

Ontario needs community economic development. We want to emphasize that worker co-ops are engaged in community economic development since they are organized to

provide employment directly. Within a worker-controlled enterprise, worker co-ops' primary goal is long-term stable employment for their members. This in turn of course contributes to the economic base for stable communities.

Worker co-ops exert full control over their co-ops and, as residents of local communities, they bring their communities' values to their co-ops in terms of decisions about the direction of their business. As such, they ensure that the business remains responsive to community needs. The created wealth stays in the communities in which it is generated. The very structure of the worker co-op ensures that capital is recycled, the capital remains anchored in the community and the jobs stay in Ontario.

Presently, most community economic development in Ontario is constrained by a lack of capital. The proposed amendment would provide a vehicle which we can access private capital for co-op economic development.

We note that in regard to compatibility with the federal program that British Columbia and Saskatchewan have a broad definition of the type of organization with can develop the labour-sponsored investment fund and that both of these provinces are recognized for their federal tax credit.

In British Columbia the definition includes a labour organization or other group with a work-related affiliation. In Saskatchewan it's a recognized labour association including a trade union, a corporation formed by employees of the same company or an investment cooperative.

Since these are broader definitions, we conclude that the definition of Bill 150 is overly restrictive. We also note that Nova Scotia just recently announced the establishment of a worker ownership program under the 1992 budget which specifically notes that employees of co-operatives will be eligible for that program.

We've excerpted pages from the discussion paper on the operation of labour-sponsored investment funds in other provinces. I want to note that the discussion paper around this bill recognized that:

"Cooperative corporations, by design, subscribe to the participatory values which this program promotes. Cooperatives are currently not eligible for this program due to a number of technical issues which remain to be addressed. Many of these issues are part of the Cooperative Corporations Act.

"Through the consultation process, the government will be seeking to identify changes to the CCA and this program necessary to enable cooperatives to participate in the program."

Amendments to the Cooperative Corporations Act were introduced in December. They should shortly receive second reading, so the technical obstacles are being eliminated. By expanding this definition, we would allow worker co-ops to contribute to the economic renewal which Ontario needs. Thank you for this opportunity to make this presentation. We hope we can work together in contributing to Ontario's economic renewal.

The Chair: We'll start off with the third party. Mr Sterling or Mr Carr.

Mr Norman W. Sterling (Carleton): Thank you very much, John. I appreciate your coming down. I've had an opportunity to talk to you on the phone about inclusion of worker co-ops and you have our full encouragement and endorsement for the inclusion of you, even if it doesn't mean—I'm not sure whether the federal government has moved on it or not, but notwithstanding that, I don't think we should limit the scope of our legislation based on federal legislation. We should do it in an equitable and even-handed fashion here.

In reading over the government amendments which were introduced last week—and I've just seen them for the first time in the last five or 10 minutes, not through the fault of the government but just that I haven't got down to it—is there any amendment which would include them in the definition of "employee organization"?

1050

Mr Evans: Not at the present time.

Mr Owens: I would like to respond to the question but perhaps I can respond to it when we reach our turn in the speaking order. At this point, there is no amendment—

Mr Sterling: That would include them.

Mr Owens: —in your package. However, I intend to address that.

Mr Sterling: Well, if Mr Owens is representing the ministry, perhaps he could respond then.

Mr Owens: Our intention today, Mr Sterling, is to signal to the committee that we'll be bringing forward an amendment to include worker co-ops in this bill. We are certainly looking at unanimous consent when we bring this amendment forward. I appreciate your comments of support on the issue. It's also my understanding that Mrs Caplan has indicated support for the issue. It's my understanding that clause-by-clause begins on June 5 and that—

The Chair: I believe so, after we've had all the other presenters forward on May 28.

Mr Owens: I simply want to say that the amendment will be available for the perusal of the opposition parties with enough time to allow for commentary. Again, I appreciate the support from both the Liberal and Conservative caucuses on this issue. We think it's an important inclusion.

Mr Sterling: Could I then ask Mr Brouwer, where does the federal government sit with regard to its legislation? This would give, I guess, a fund set up by yours the advantages of the provincial grant, but as I understand it you don't have that advantage with the federal. Is that correct?

Mr Brouwer: We don't have this advantage anywhere in Canada at this point. This would allow us to initiate such a fund here in Ontario and work with the federal government to get its backing to piggyback its credit on to the Ontario initiative.

Mr Sterling: Your definition of a "worker co-op" is what?

Mr Brouwer: "Worker co-operative" will be defined—it is being defined in the amendments to the Co-operative

Corporations Act as a co-operative in which at least 80% of the employees are members.

The Chair: Could I just stop for a minute because Hansard's having a problem recording there. Can you signal me when you're ready to go again?

Go ahead, Mr Sterling.

Mr Sterling: Perhaps for the record, I will just repeat it. My question was, what is the definition of "worker co-op" and you were explaining. Perhaps you could repeat that for Hansard.

Mr Brouwer: The definition of a "worker co-operative" is defined in the revisions to the Co-operative Corporations Act which received first reading in December and essentially it says that 80% of the workers in a business have to be members of the co-op.

Mr Sterling: Do they have to have the ownership of the—

Mr Brouwer: They would have voting rights in the co-operative; 80% of the workers would have voting rights in the co-operative.

Mr Sterling: Does a co-operative have to have ownership rights in the business in which they're working?

Mr Brouwer: Yes, the co-operative owns the business.

Mr Sterling: One hundred per cent?

Mr Brouwer: There are other forms of investment that can come into that business, but the common shares would be owned by the workers. They can issue preferred shares. They can issue debt instruments so other people can invest in the business.

Mr Sterling: Are there any workers' co-ops that exist outside of private industry, for instance, a group in a non-union public enterprise?

Mr Brouwer: For example, in Quebec, they have ambulance cooperatives which here are considered to be a public enterprise. In the Quebec situation, there are some workers' co-ops or ambulance cooperatives. It depends upon the situation as to how close you would get to being a public enterprise.

Mr Sterling: Okay.

The Chair: For some clarification, Mr Sterling, we have Mr George Alkalay and maybe he could come forward to explain a little bit in this particular area of co-ops if the committee would wish.

Mr Sterling: I'm satisfied right now, but that's fine if some other members would—

The Chair: I'm not taking any time away from you, Mr Sterling.

Mr Sterling: I'm satisfied with that. I've got the right answers.

Mr George R. Alkalay: Do you want me to just quickly summarize what the amendment is?

The Chair: Yes.

Mr Alkalay: Under Bill 166, which received first reading in December, "worker co-operative" will mean a cooperative, "the articles of which provide that the cooperative's primary object is to provide employment to its

condition of membership that, except in circumstances prescribed by the regulations, a member must be employed by the cooperative."

What's going to be prescribed in the regulations are certain provisions so that somebody who's a part-time worker working less than 15 hours a week doesn't necessarily have to be a member of the co-op or that the co-op can say that for a period of one year somebody's on probation and they're not a full member. The requirement is just a slight point of correction, that at least 75% of the permanent, full-time employees of the cooperative be members of the cooperative. It is not 80%; it's 75%; 75% of the permanent full-time employees must be members of the cooperative.

The Chair: Now, we go on to Mr Owens.

Mr Owens: Just a minor correction in the terminology I used in my comment: I used the terminology "worker cooperative." Our amendment will be taking a look at an enabling process for federations and/or associations of co-operatives to sponsor an LSIF which currently they are not able to do at this point.

Perhaps I could just thank John Brouwer for coming to the committee this morning. We've worked long and hard on this process and I'm really pleased to be able to signal the government's intention this morning for yourself and your colleagues that are with you today.

Mrs Caplan: I'm very pleased to hear the commitment from Mr Owens on behalf of the government caucus and of the minister on an issue that we've raised and discussed for quite some time, and that was our concern that this program would only be made available to organized labour union participation. The expansion today and the commitment to have an amendment brought forward that would allow non-union, which would include worker co-op, is indeed very welcome and we look forward to that amendment and are pleased to hear that commitment today.

I would assume that the amendment, which I'm disappointed we couldn't have today or have had before this time when the committee began its hearing because the debate has been going on for quite some time and this issue was raised during second reading in the Legislature—I would point out that there is a very good model in legislation existing in Saskatchewan which would resolve the problem that has been expressed by Mr Brouwer, and by others who I believe would like to have the opportunity of participating.

We've been concerned that there is a bias within the government, and particularly as witnessed by this legislation which would favour unduly union participation in government programs. I personally look forward to the amendment and will assume perhaps there could be a commitment today that it will be along the lines of the Saskatchewan legislation, which will be inclusive for unorganized or other non-union groups that would qualify, as well as worker co-ops.

Mr Owens: I'm not sure that I can make that commitment today. However, I will be pleased to bring the amendment forward to the committee. As I say, you will have it in your hands before we get to the process. The

wording, at this point, is still being worked on. As we had the experience together of the health professions legislation, where things were constantly evolving, we are still in an evolutionary process with respect to the wording. So for me to give a commitment like that today would not be appropriate.

1100

Mrs Caplan: To be helpful, I would direct Mr Owens and the government to the wording in the Saskatchewan bill. Perhaps my colleague Mr Phillips could—

Mr Phillips: Yes.

Mr Owens: We thank you for your guidance.

Mrs Caplan: Just trying to be helpful.

Mr Phillips: I will follow up a little bit on that because—I'm glad it isn't finally drafted, because we can have some influence on it. Actually, the very day the bill was introduced in the Legislature, we raised this issue. We said that we thought the Saskatchewan model was a good one. At the time, I think the argument was the federal government wouldn't permit or wouldn't allow their tax credits to apply. Obviously, now that we're recognizing co-ops, that's not the driving force. Now that's gone and fortunately we've gone beyond that stage so we can now, I think, look at that Saskatchewan model. The fact you haven't finally drafted it will be helpful so that we're not as restrictive and we can see more worker participation in the province. We also have talked with John and his group and are very supportive of the direction they want to have.

The Chair: Anyone else with any questions left? Okay, Mr Brouwer, thank you for coming before this committee and thank you again for your submission.

BESPOKE CO-OPERATIVE ENTERPRISES INC
CO-OP HOUSING FEDERATION
OF EASTERN ONTARIO

The Chair: We have two groups making the next presentation. It's the Bespoke Co-operative Enterprises Inc and Co-op Housing Federation of Eastern Ontario. Would you come forward, please? Could you identify yourselves for the purposes of Hansard? The same applies that you have one-half hour for your presentation and question period before the committee. Welcome here.

Ms Hazel Corcoran: Thank you. I'm Hazel Corcoran from Bespoke Co-operative.

Mr Mark Goldblatt: I'm Mark Goldblatt. It's true I am the current president of the Co-op Housing Federation of Eastern Ontario. I'm also a past vice-president of the National Co-op Housing Federation and also its previous executive director. I just want to point out to the committee that I'm here today in a voluntary capacity associated with the Bespoke Workers' Co-operative in Ottawa.

Ms Corcoran: I'd like to briefly begin by just giving a little bit of background about myself. I'm an articling student at the moment, the corporate secretary of the Canadian Worker Co-operative Federation. As you also know, I'm involved with the Bespoke workers' co-op in Ottawa. By the way, I should tell you that the word "bespoke" means "custom-made." Nobody ever knows what it means.

By the way, I should tell you that the word "bespoke" means "custom-made." Nobody ever knows what it means.

While at law school, I did a major research paper on various models of worker ownership with an emphasis on legislation in various Canadian provinces, including Ontario and several European countries. First of all, I'd like to say I prepared my topic before I knew the amendment was going to be made. I want to thank you very much for listening to us and amending the bill in terms of the labour-sponsored venture capital corporations side of the bill. However, the second issue, I believe, is still out there. The employee ownership part of the bill, from my understanding, would still exclude worker co-ops, so I'm going to go through with the rest of my remarks on the assumption that's still the case.

The reason I've been lobbying the government on this bill for several months is I believe it would achieve merely a half-way point to true worker ownership. I'm advocating that you include worker co-ops because they are a more complete type of worker ownership and democracy. What Bill 150 proposed at its outset was a different type of structure, somewhat similar to worker co-ops in the short term, but with a tendency to revert back to non-worker ownership structures.

I would simply like worker co-ops to also be included, because I believe that worker co-ops are an approach which has a similar effect to the one side on this bill, but on a lasting basis.

I guess I would revise those remarks to say that whereas we have been asking you to take a full step towards worker ownership, you are taking a half step. Now it's more like three quarters of the way, and we'd still like to see changes to the other side of the bill.

I take this position because I have discovered that worker co-ops represent the very best and most stable type of worker ownership, as John Brouwer also explained. Thus I and the other members of Bespoke were very disappointed and surprised when we discovered that you had excluded them from any part of the worker ownership bill; this still applies to the employee ownership part of it. When you exclude worker co-ops, you're actually discouraging the best form of worker ownership because they're at a disadvantage relative to other types of employee-owned companies.

There are going to be two small parts to the rest of my remarks. First, I'll try to explain why I think this move is so important, both the one you've already made and the one I'm still trying to convince you to. Also, I'm going to try to explain the difference between worker co-ops and employee-owned organizations of other types like the ones in this bill.

In terms of the importance of the move, all over the world and acutely here in Ontario workers are feeling the effects of globalization of the economy and deep recession. Politicians are often heard giving a litany of our economy's problems, but none of them seems to come up with good solutions, and I believe that's for a good reason.

The real economic decisions are now difficult, and in some cases impossible, to influence any more by provincial and national laws. The real decisions are being made

by people who control capital, and capital owes loyalty to no community. It owes allegiance only to maximizing profit for investors, who are often outside of Ontario and even Canada.

As this government realizes all too painfully, the old solutions to the problems of workers do not work in a world where capital has no borders. Aggressive labour organizing and tough labour laws cannot stop capital from closing plants, even profitable ones. In fact, the opposite is sometimes closer to the truth: Where government attempts to strengthen labour and environmental laws, they may actually speed up the process of capital flight to places where workers have fewer protections. The free trade agreement has accelerated this problem for Canada.

But worker co-ops are a solution that works under the present conditions. Therefore, an option governments have is to encourage the re-employment of capital generated in Ontario to fuel Ontario businesses with the lasting commitment to their community, through encouraging worker co-ops. Unfortunately, the worker co-op sector, although it represents an extraordinarily powerful idea, always has difficulty getting established in any given place unless it gets a so-called kickstart from governments or some other partner, such as labour unions or churches. But once the sector is kickstarted, there is virtually no limit on what it can accomplish. The reason the worker co-op sector seems unable to kickstart itself is that it simply does not create a sufficient concentration of power or capital to attract capital investors; instead, the economic benefits of worker co-ops are broadly distributed. So I'm asking that the government take steps towards making worker co-ops eligible for all parts of this act.

Now I'll go to the difference between worker co-ops and other employee-owned corporations. The two are often confused because in both cases the employees have the votes and get the profits, but the two types of companies are based on very different principles. A worker co-op is a form of incorporated business owned by the collectivity of the workers and which each worker-member controls democratically and equally, on the basis of one-worker/one-vote, instead of on the basis of one-share/one-vote. Thus the roles of shareholder and employee are merged. They represent the only corporate form in which both characteristics of ownership—control and right to share in profits—are vested in the workers because of their status as workers, and not as shareholders due solely to infusion of capital. The workers in a worker co-op do invest their own capital but it's not on this basis alone that they own it. Rather, each worker has ownership and an equal vote because she or he is a worker in that company.

The other forms of employee ownership besides worker co-ops may be seen to be on a spectrum of democracy, with worker co-ops as the most democratic form. A very common form is the employee stock ownership plan or ESOP. In ESOPs, employees typically own a limited percentage of the shares, which does not allow them to control the company. Thus they serve mainly as a financing device for conventional corporations but do not significantly change the direction or management of such corporations.

The problem with the worker ownership proposal is that it basically establishes two types of labour-sponsored venture capital corporations for ESOP organizations—and now you're adding worker co-ops into one half, I recognize—but it stops short of allowing worker co-ops from benefiting from these provisions. If your goal is to encourage worker ownership, it is difficult to understand why you are in fact discouraging the best form of worker ownership in any way.

1110

I've been asking since December why worker co-ops have been excluded in any part. As I said, I'm glad to see that they're no longer excluded in one part, but I would like, if it's possible, to have someone explain to me what the technical issues are. I can't seem to find any. Once we get a definition of a worker co-op, what's the technical reason that worker co-ops can't fit into the employee ownership side? Barring any technical issues, I request that the committee amend the bill to include worker co-ops in all parts.

Mr Goldblatt: My name is Mark Goldblatt. I welcome the opportunity to comment on the Ontario investment and employee ownership program, Bill 150, because we feel it's an innovative and progressive piece of legislation that will contribute to strengthening Ontario's economy.

I want to make my points about Bill 150 by going a bit into my personal background. I've been involved in the co-op movement both as a volunteer and full-time employee for the past 18½ years, most of the time focused on non-profit co-op housing. I got involved in co-op housing in September 1973 by forming a community co-op in the neighbourhood where I lived, and then teaming up with another community activist, Noreen Dunphy, to cofound the Cooperative Housing Federation of Toronto, where I worked for the next 11 years.

However, the breakthrough in public policy that allowed me to become involved in co-op housing took place not in September 1973, but several months earlier, in June 1973, when the National Housing Act was amended to insert non-profit housing cooperatives as an eligible vehicle for financing under National Housing Act programs. This breakthrough was accomplished at a time of a minority federal government, where the Trudeau-led Liberals were in a working relationship with the David Lewis-led NDP. The NHA was amended to permit housing co-ops to benefit from its financing programs after lobbying pressure from the very young Co-op Housing Federation of Canada.

On the co-op housing side, there were just a handful of people with vision and not much else. At that time there were fewer than 10 family housing cooperatives existing in the country. Today there are nearly 2,000 housing cooperatives with 72,000 units, and the housing co-op phenomenon has definitely not peaked.

The worker co-op situation today is in very much the same place as the co-op housing movement was in 1973. There are few worker co-ops in English Canada, and no high-powered lobby of parliamentarians is possible. To begin realizing the potential of worker co-ops, some politicians will have to show leadership, some vision, to

introduce mechanisms where the government acts as a catalyst opening the door to working people to get involved in generating and maintaining their own jobs using the worker co-op method.

One favourable part of the current environment, as has already been mentioned today, is that amendments to the Co-operative Corporations Act to provide a statutory definition of a worker co-op are imminent and should become law within this session of provincial Parliament. We're often in situations where we're faced with adopting legislation when the final implications are not completely known. However, if it's a priority, legislation is amended and the resources are brought to bear, action gets taken and we continue to work together to make adjustments as we go. This is the position with respect to worker cooperatives and Bill 150. Your decision, if in fact it's adopted, to amend Bill 150 to allow worker cooperatives to benefit from the act will be a key turning point in the history of the worker cooperative movement in Canada.

In closing, I had one question I wanted to direct towards Mr Owens. I think I've lost the attention of the Chair. Can I address a question to Mr Owens?

The Chair: It's usually in reverse, but go right ahead.

Mr Goldblatt: It's because of his earlier remarks that amendment was being considered, with the wording not exactly tabled at this time. Did I understand you to say that the amendment under consideration by the government is that associations or federations of cooperatives—not specifically just worker co-ops but cooperatives—would be defined as an eligible party to form a labour-sponsored venture capital corporation?

Mr Owens: Yes, your understanding is correct.

Mr Goldblatt: It is correct. Then I have an additional remark to make. In these 18½ years, I've played a continuous role in the larger co-op movement in Canada. I am a past, founding director of the Canadian Co-operative Association, which is the umbrella for all the English-speaking cooperatives in Canada. That's all the wheat pools, the credit unions, the fishing co-ops, the retail co-ops, the housing co-ops, the funeral co-ops etc. I've been a director of that organization.

In Ontario, there's often not enough public profile of cooperatives; I would say it's the province which up till now has had the least public profile for cooperatives. I just point out that in fact the co-op movement in Canada has over \$100 billion in assets and nearly 100,000 employees. The statistics from the federal co-op secretariat is that 43% of Canadian adults belong to at least one type of cooperative.

On the basis of what you've said today, Mr Owens, I would support definitely a wording that allowed cooperatives of all types to form labour-sponsored investment capital corporations, because I think there's an enormous amount of experience and expertise in the broadly defined movement, and that will be a benefit, among others, to the worker cooperative sector itself.

The Chair: Mr George Alkalay, could you come forward a little on the co-op review and give a little explanation?

Mr Alkalay: The Ministry of Financial Institutions is on an ongoing basis reviewing various legislation and

regulations and programs as they affect cooperatives, so some of these broader issues will be addressed at that point. Did you want to ask more specific—

Mr Goldblatt: I had a comment about that. We're aware in the co-op movement that the Ministry of Financial Institutions is imminently expecting to set up an advisory committee on cooperatives, generally speaking. The strong feeling, though, of the Canadian Co-op Association's Ontario division is that it welcomes the chance to work with the government through an advisory committee but doesn't want it to become an excuse for referring off the table every co-op issue that comes up in the next months and years to some sort of black hole and will eventually come back. Because even if this advisory committee gets set up and goes to work on this specific piece of legislation, the most that will happen is that they recommend that worker co-ops are included as an eligible participant in the act, and we'll be right back to where we are today. With that one proviso, we're glad to hear about the advisory committee.

Mr Owens: Just a comment regarding the review, as I will be the person chairing, or whichever form the other review takes. We have made a commitment to CCA and other stakeholders in the process that this will be clearly an action-oriented review; that if issues are identified as the process moves on, those issues will be dealt with at the time of identification rather than at the point of the conclusion of the review. It'll be a dynamic and ongoing process.

Your comments with respect to how Ontario sees co-ops are quite correct. In terms of Ontario relative to other provinces, we are probably 10th out of 10 provinces in how we recognize our co-ops. Your description of the kind of involvement you've had with respect to womb-to-tomb co-ops—I gather that's the phrase—is quite instructive. It's certainly the intention of our government to review the legislative process to determine how we can enhance the role of co-ops so we can reach at least an equal footing with other provinces at this point in how they view co-ops and their excellent contribution to the life of people in the provinces they operate in.

The Chair: Mr Alkalay, do you have any remarks?

Mr Alkalay: I think Steve has said it all.

Mr Carr: Thank you very much for your presentation. I guess you are going to be successful in being included. As you probably heard earlier with Norm Sterling, his feeling is that we should include everybody, whether you're union, non-union, co-op or whatever. Is that your feeling, and if not, why not?

Mr Goldblatt: We're not holding out to be here today in front of you as representatives of anything except the cooperative movement, so you would have to direct that type of question to the government. From our point of view, cooperatives have a singular, distinct role in the economy in that they're the only form of ownership we have in Canada which is organized on a democratic basis: The basis for control of the firm, whatever type of business it's involved in, is based on the individual human being, on the one-member/one-vote basis, as opposed to being associations of capital or government-controlled or, for that matter, philanthropic, non-profit, society-controlled. It's the only one where the individual person is at the base of the control structure of the enterprise, as I said, on a one-member/one-vote basis.

Mr Carr: Did you want to comment on that?

Ms Corcoran: I would just add that in terms of the specific issue of unions, co-ops can either be unionized or not.

Mr Carr: I was thinking specifically of the non-unions. Everybody should be included, right?

Ms Corcoran: Co-ops can be non-unions, and as far as we are concerned, and I can only speak about co-ops, whether they're unionized or not we would want them to be included. I can't speak for any other type of enterprise.

Mr Carr: Basically you're saying, "We don't want to talk about other groups; we're specifically here for this." Our feeling is that no group should be excluded, whatever the reason, and you're saying you don't want to discuss that issue, you're only here to talk about the co-ops.

The Chair: I'd like to thank you for coming before this committee with your presentation.

Mr Goldblatt: Thanks for giving us the opportunity.

The Chair: I've been talking to the Minister of Revenue, and for any members of the committee here who would like more information, on Tuesday, May 26, at 3:30 in the boardroom on the fourth floor of the Hearst Block, if anyone has any questions on the amendments or any other questions on Bill 150, as we said before, these people are available on an ongoing basis, but they are willing to meet with this whole committee on any questions.

So this committee will be adjourned until May 28 at 10 o'clock. We'd like to start sharp because we have quite a few presentations, so if some members aren't here, we'd like to start at 10. Hansard will be available for people who miss the first three or four minutes of the beginning of the presentations.

The committee adjourned at 1124.

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- *Owens, Stephen (Scarborough Centre ND) for Ms Ward

*In attendance / présents

Also taking part / Autres participants et participantes:

Evans, Jim, executive director, revenue services and operations branch, Ministry of Revenue
Alkalay, George R., special adviser, deposit institutions division, Ministry of Financial Institutions

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service



Legislative Assembly of Ontario

Second session, 35th Parliament

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Official Report of Debates (Hansard)

Thursday 28 May 1992

Journal des débats (Hansard)

Jeudi 28 mai 1992

Standing committee on finance and economic affairs

Labour Sponsored Venture
Capital Corporations Act, 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur les corporations
à capital de risque de travailleurs



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 28 May 1992

The committee met at 1006 in committee room 1.

LABOUR SPONSORED VENTURE CAPITAL CORPORATIONS ACT, 1992

LOI DE 1992 SUR LES CORPORATIONS À CAPITAL DE RISQUE DE TRAVAILLEURS

Resuming consideration of Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments / Loi prévoyant la création et l'inscription de corporations à capital de risque de travailleurs aux fins d'investissement dans des entreprises ontariennes admissibles et apportant des modifications corrélatives.

The Chair (Mr Ron Hansen): I'd like to welcome everybody to the standing committee on finance and economic affairs. This morning we're having hearings on Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: The first group to come before us this morning that I'd like to welcome is the Canadian Federation of Independent Business. We have one half-hour for the presentation and in that half an hour, please leave some time for questions of the three parties. Would you please identify yourselves for the purposes of Hansard? You may begin.

Ms Linda Ruth Ciglen: My name is Linda Ruth Ciglen and I'm the director of provincial affairs for Ontario. With me is my colleague Bill Parsons, our director of political action.

You've got two items before you. One is our statement. It's briefer than a brief so we're calling it a statement and it really just focuses on one aspect of the proposed program which is the objective of providing capital to small and medium-sized businesses through labour-sponsored venture capital funds. Accompanying it is a backgrounder, our very recently produced report on the banking industry that just gives you some flavour of how the banks, and not equity financing, are the primary source of funding for small businesses.

As many of you know, because we've been here before, the Canadian Federation of Independent Business is a non-partisan political action organization. It represents about 83,000 members across Canada and about 40,000 here in Ontario. Our members are independent, Canadian-owned and -operated, small and medium-sized businesses. They are from every sector of the economy. They live in every corner of the province.

They range in sizes and ages from one-person proprietorships up to over 500-employee companies. About a third of them are located in rural areas, a third in smaller urban centres and a third in large metropolitan centres. Approximately one out of every eight small businesses in Ontario is a CFIB member.

This is not news to some of you who have seen us before, but I'd just like to stress again the important role that small businesses play in the economy. In 1989, which is the last best year of available data, there were over 320,000 firms operating in Ontario's private sector and 96% of these firms had fewer than 50 employees. It really is a small business universe out there.

These small businesses employ one third, about 30%, of the Ontario workforce and they also create most of the net new jobs in the economy. In the 10-year period 1979 to 1989, which again is the most recent available data, three quarters of all net new jobs in Ontario came from businesses with fewer than 50 employees. Another 300,000 Ontarians are sole proprietors operating without any employees who also count as small businesses.

The labour-sponsored venture capital program is being promoted by the government as a way to "provide small and medium-sized companies with a new source of capital which they can use to modernize for growth and for restructuring of their operations." That's a direct quote from John Whitehead who was before you when the bill first came before this committee. He also estimated that the program is projected to cost Ontario taxpayers up to \$250 million at maturity.

Our analysis of the program shows this program is not an appropriate vehicle for encouraging modernization, growth and restructuring in small and medium-sized Ontario companies. It also shows that Ontario taxpayers, including the small business community, will not get good value for their hard-earned tax dollars from this program. A much better use of the \$250 million the program is projected to cost and which would accomplish the objectives of the program is to exempt the first \$400,000 of payroll from the purview of the employer health tax.

As you know, we gather data from our members on a continuous basis. Our field representatives see nearly 2,000 Canadian businesses a week, and about 800 of them are in Ontario. During these face-to-face visits, the members talk to our field representatives about the problems their firms are facing.

The number one problem, as it has been for a number of years, is not the access to financing but the crushing weight of the total tax burden imposed on small firms by all three levels of government. At the back of your brief, there's a chart that gives the most recent breakout of what small businesses feel are their major problems. Total tax burden is number one, and it just keeps getting bigger and

bigger. About 10 years ago, in the last recession, somewhere around 40% to 42% of the members were reporting that total tax burden was a problem for them. Now in Ontario it's over 87%.

By contrast, you'll see near the bottom that less than a quarter of the members report that availability of financing is a problem for them. It's the one just above that catch-all "Other" category. The labour-sponsored venture capital program is thus based on a faulty assumption about what small business needs. The small businesses of Ontario are saying loud and clear that what they need is tax relief, not a program to make financing available, which over three quarters of them don't need and which siphons off even more of their hard-earned tax dollars.

Even if availability of financing were a bigger problem than it is in the small business community, the labour-sponsored venture capital program is inappropriately designed to deliver a solution. Small businesses fund their growth, modernization and restructuring plans through borrowings from their bank, through their own internal retained earnings and through loans or investments in relatively modest amounts from friends and family members. They are not well suited for outside investors to take equity positions.

The amounts of money that small firms typically need, when you weigh them against the amount of due diligence screening that equity investors require, particularly administrators of a mutual fund that have their funds at risk, make equity investments in small firms financially unattractive. It just costs too much up front to do the screening for the amount of money you're actually going to place. It doesn't make sense in a cost-benefit analysis. When the fund holders spend that much money up front doing the screening, they want to place a bigger amount of money for a bigger return to make it worthwhile. When you're only talking about \$100,000, it usually doesn't pay out.

When Working Ventures came before you, they basically talked about the fact that they had reviewed nearly 200 business plans to get a short list of 10 proposals, of which two have investment potential. They're obviously doing a good job. That is very par for the course in the venture capital industry. There is an awful lot of screening to do before you come up with the ones that are worth investing in, and in order to recover the costs of the highly skilled investment professionals who have to be employed in this task over the number of months that it takes, the investments need to be chosen in order to produce a substantial return. In a cost-benefit analysis, outside equity investments in small firms just aren't worth it.

The government program designers know this. They have obviously heard and heeded—rightly so—the advice from the financial and venture capital industries. The outside parameters for eligible investments—\$50 million in assets and 500 employees—allow for those bigger investments that are really needed to make this program viable. What that also means is that most of them will be pushing the parameters at the big end. It's just not going to work for the program in any other way. Those are the investments that will produce a cost-beneficial return for the fund investors. It's entirely understandable from an investment

perspective. We're not criticizing it at all, but the point is that it will not produce benefits for small business. It's just not appropriate for that.

Table 1 in your brief gives a picture of the distribution by asset size of Canadian firms for 12 manufacturing industries. The data unfortunately are not available on an Ontario break-out. This is the way Statistics Canada provides it. However, these 12 firms tend to be Ontario-based and we can probably, in a ballpark estimate, figure that about 60% to 80% of these companies would be in Ontario.

The table shows the average asset size and average employee size per firm for each industry listed. It's clear when you look at the table that 95% of the firms have assets that are less than \$5 million. Those first three columns consist of 95% of all the firms listed. Less than 4% of the firms have assets between \$5 million and \$25 million, and less than 1% are in the \$25 million to \$100 million category.

They didn't break it out by \$50 million; otherwise we could have just stopped at that because those are the parameters of the program, but again this is the way Statistics Canada provides it. Basically, given that the investment realities dictate that the investments will probably cluster around the \$50-million-asset cutoff point, only a minuscule number of firms at the high end of the medium-sized scale will be the beneficiaries of this program.

The available data from the Quebec prototype program, the solidarity fund, bear out these findings. Although reports of the total solidarity fund size vary between \$450 million and \$575 million, the reports are that only about \$200 million, which is 35% to 45% of the total fund, is actually invested in Quebec companies. Again we're not faulting that from an investment perspective; it needs to be that way, but it again shows that that money doesn't flow to the small businesses. Moreover, this \$200 million has been invested in only 97 Quebec companies since the inception of the fund in 1985. This is an average investment of over \$2 million per company and an investment frequency average of about 16 deals a year.

Under the circumstances, it verges on misrepresentation for the government to portray this program as helping small and medium-sized business. It may do other things, it may have other objectives that are in line with what the government wants to do, but it is not going to be effective to help small and medium-sized businesses. Far from helping them, the program can actually work to the detriment of them; 99% of the small and medium-sized firms will not be able to benefit from this program because investment realities preclude them as a potential investment target, yet all of them will pay for the program through their tax dollars. In fact, their biggest competitors will be subsidized by the program at their expense. This is clearly unfair.

If the government is planning to spend up to \$250 million on this program, there is a vastly simpler way to do so and benefit every small business in the province at a low to nil administrative cost. The Canadian Federation of Independent Business has been recommending for a number of years that an exemption be allowed for the first \$400,000 of payroll that's subject to the employer health tax. This is parallel to the exemption that was first introduced

in Manitoba under the NDP government of Howard Pawley, and the Manitoba exemption now stands at \$600,000. Employers with payrolls of under \$600,000 do not pay any employer health tax in Manitoba. It exempts all the small businesses. Such an exemption would most benefit the smallest firms that are hardest hit by regressive payroll taxes like the employer health tax.

The government estimates that 90% of the \$2.6 billion that's raised yearly through payments by the province's employers to the employer health tax is paid by the larger companies with over \$400,000 of payroll. So the impact on revenues of this exemption would therefore be in the neighbourhood of the \$250 million the government is projecting will be spent through the labour-sponsored venture capital program.

The beneficial impact of this exemption is really incalculable. Besides the shot in the arm of a tax break where small firms need it most, on a regressive, job-killing payroll tax, the retained earnings that are left in the small business because it is not paying them out to the government could be put to work hiring people and creating jobs. When people are hired they pay personal income tax on their salary, which flows to the government and benefits the government. They also have disposable income in their hands, which they can then spend in the economy and help the economy recover; more retail sales tax revenues for the government again. As the economy gets back on its feet and corporate profits recover, corporate income tax revenues will again go higher.

So it looks like the government is forgoing the money, but if it's planning to forgo it anyway, this is a much better way that's going to benefit everybody rather than just a few minuscule companies that might get the benefits through venture capital investment. More than programs or well-meant words about helping small businesses, Ontario's small firms would appreciate this practical gesture that shows them their government understands small business realities and is on their side. Thank you, and we'd be pleased to take your questions.

1020

Mr Gary Carr (Oakville South): Thank you very much for your presentation. I was interested in the charts which show some of the concerns of small business in back. We brought this up on numerous occasions to both the Minister of Industry, Trade and Technology and the Treasurer, and it often seems that governments worry about the mice in the basement when there's elephants on the roof type of syndrome.

I notice on page 1 you quoted the government, "to provide small and medium-sized companies with a new source of capital." When the government says this program will do that, I think you said very clearly it is wrong about that. Is that right?

Ms Ciglen: That's right. Small businesses capitalize themselves in basically three ways: They borrow from their banks, they use their own retained earnings and they get modest loans from families and friends because they don't have to go through the same kind of structure. A tax break to small business represents increased retained earnings in

the firm, which is a source of capital for them. It's a much better, more effective source of capital for them than a program.

Mr Carr: One of the reasons for this program, I believe, is to help the big unionized companies, yet they say they want to help the small and mediums, because I think that's politically popular. I know in New Directions we talked about the employee payroll tax and what we would do when we're in government and outlined some of those things as well. What you're saying is, if you really want to help small and medium businesses with the money you're going to spend, this is how you could do it?

Ms Ciglen: That's right. This is not the way. There may be other legitimate government policy reasons for going ahead with this program, and we're not even addressing those. All we're saying is, don't pretend this is going to help the small business sector.

Mr Carr: I guess that's our feeling as well. If you're going to do it for the big unionized companies, at least be up front—

Ms Ciglen: Be up front about it.

Mr Carr: —and honest and say that it's going to be for the larger companies.

Mr Bill Parsons: If anyone other than government was advertising this program for small business, the consumer affairs ministry would be after them for false advertising. The facts just don't bear it out.

Mr Carr: Let me ask you this: Having been involved with watching the political workings, why do you think the government is trying to basically—I don't want to mislead people with this. Why do you believe they are attempting to do this and sell the program that way?

Ms Ciglen: I think a lot of it is just the way this government still doesn't understand the realities of small business. I think they are attempting to get their minds around it, but they're still pretty far away.

When the earlier consultation went on, we went in and met with the Treasury staff and we told them exactly what we're telling you right now. Not a line of it, not a word of it showed up anywhere, and they're still maintaining that it's for small business. I don't know if they didn't understand it or if they just chose to ignore it, but we haven't said anything differently to you than what we said to John Whitehead and the other group we met with last summer when they were consulting about this.

Mr Carr: That's the frustrating part, as you know. The Minister of Industry, Trade and Technology says, "We're listening and consulting." We get rather sick when we hear that comment, because even if they didn't say it, the fact is they are coming in but there are no results.

Again, I'll give this government a little bit of its due and say it isn't purposely doing this to mislead the people but it doesn't understand. Rather than having to have any type of experience in looking at it, all they have to do is listen to the people who represent 83,000 small businesses, who see 800 small businesses. I mean, you consult with them more than this government—any government—will ever do. Yet they turn around and say, "We're consulting,"

but you don't see anything coming in as a result of it. That's the frustrating part.

Ms Ciglen: This is not to say that there isn't going to be the occasional small or medium-sized business a program like this could help, but the benefits to one or two that might be helped compared to the 300,000 that are just going to be paying for it through their taxes and not get any benefits; that's why we feel it's really a misrepresentation to say this is going to be helpful to small business.

The Chair: We have to move on.

Mr Monte Kwinter (Wilson Heights): Thank you for your presentation, and I agree that the intent of the program is different from what the government's advertising of it is. I was a minister at the time when this was being discussed, certainly at the initiative of labour, and my perception at the time was that labour wanted to have a pool it could invest in startup companies to encourage development.

That's really what a venture capital fund is. Venture capital is not used to address providing "small and medium-sized companies with a new source of capital which they can use to modernize, for growth and for restructuring of their operations." I agree with you that the amounts of money the average small business would require would not make it economically feasible to do it.

As a matter of fact, I had someone in just the other day trying to access some government funds and he was told that at \$10 million or \$11 million it wasn't worth anybody pursuing it and there were no programs available at that level. They'd have to be up at a much higher level before the federal government would get involved. So I agree.

I also think there's a problem in that access to capital doesn't seem to be the problem when you're talking about venture capital. It's projects which are viable that are the problem. I think the government would probably be better advised to encourage that kind of thing because good projects with good viability can attract capital. It's only the projects that are not viable, the companies that are in trouble, that are looking for capital. They're the ones saying, "We need some government help because otherwise we're going to fail." That is a problem. I was just wondering if you have any comments on that.

Mr Parsons: I would say that one need only look to the province of Alberta and what's gone on there in the last week to understand the very risky nature of government getting involved at the bigger-project level through any vehicle. Novatel was the high flyer, high-tech Alberta diversification company that was going to change the province. They now have a \$566-million tab to pay. There are a number of other examples in Alberta and the total is \$1 billion.

You have to ask yourselves, as custodians of the taxpayers' money, if you want to follow down that path, which is a logical next step with these types of bigger funds and where they go. The money goes to the bigger project, but if the project fails you lose an awful lot of money.

Ms Ciglen: The only thing I'd like to add to that, from a perspective of the problem you've raised, Mr Kwinter, is for government to really address why firms fail and what goes wrong, why they get into trouble. One of the things

we keep hearing from our members is that one of the major causes of their problems is the total tax burden. It is just crushingly heavy right now.

The fact that in the last recession only some 40% of firms were saying the tax burden was their number one problem and now 87% are saying it shows how much the burden has grown in the last 10 years, and it's at all three levels of government. Governments have voracious appetites for revenue right now; most of them are in deficit positions or would be.

The problems it's creating in the economy in the small business sector because of that are mammoth and you can't solve them by finding a program to throw more money into small business; you've got to address it at the root. Our entire tax structure really needs to be reviewed and revised to make it more viable for firms to be successful, particularly the small ones that are being hit so much by these regressive taxes. The costs go up and up and up and they just don't have any room to manoeuvre and eventually they go under.

The Chair: Mr Phillips, one short question.

Mr Gerry Phillips (Scarborough-Agincourt): Thank you very much for the comment. Realistically, the government is going to proceed with Bill 150 and I wonder—this is always a bit of a trap for an organization because once you start commenting on it you've kind of bought into it—have you any thoughts, on the assumption it is going to proceed, on how it might be improved, from the CFIB's viewpoint?

Ms Ciglen: There really isn't any way to improve it that would make it viable for small business. The best thing the government could do is stop pretending it's going to help small business. The nature of venture capital and the nature of the due diligence screening that needs to be done and the types of money small businesses are typically looking for, there's just not a match. It just doesn't mesh.

That's why traditional venture capital in the private sector doesn't usually have a lot to do with small businesses. Sometimes there can be high-tech startups that are appropriate for it, that start off small but are going to grow fast really quickly, but for the vast majority of small businesses venture capital is not an appropriate vehicle. So it's just not a match.

The best thing the government can do is stop pretending it's going to help the small business community, because it's not. It may have other policy reasons for doing it, and we're not going to comment on those, but it is a misrepresentation to say this program is going to help small business.

The Chair: We'll go on to Mr Jamison.

1030

Mr Norm Jamison (Norfolk): I think part of the thrust is that in your opinion you're not being heard as far as the direction your organization would like to see the government go is concerned. I can say that there have been a number of directives from the last budget that may not hit right on the things that you'd like to see in a budget but certainly do help small business, the potential of that help being the \$10,000 that is made available for hiring new

employees and the 0.5% drop in the tax rate, those kinds of things.

But in saying that, as chair of the parliamentary assistants committee for small business I know we listened to a number of groups. We inquired a number of times to meet with you, and you indicated that you couldn't find the time to meet with us prior to the budget. I would have been interested in having this prior to the budget, because I can tell you that when you talk about going to Treasury, the parliamentary assistants committee is set up to interact with the small business community, all the sectors involved there, to try to map out a course, a direction that we as a recognized committee can set forward to the Premier. If there was just some advice I could give you, that is to really consider making the time to meet with the parliamentary assistants committee because it does have that direct responsibility and the responsibility from there to report to the Treasurer.

I don't see that there isn't going to be a positive effect for small business from this document, even if what you're saying is correct, because small business in fact relies very heavily on the success and nature of large business in many circumstances, so I don't necessarily agree with that. But if there was something I should say to you it is that there have been some very recognizable changes, beneficial changes that are coming forward for small business. Again, I detect an overall tone of negativity, but certainly the tax system built around small business was not built in one single move and the changes under financial situations that are exacerbated at this time are ones in which we moved in those directions.

The other thing I'd like to say is that there is a direction now being taken to reduce the paper burden. I remember talking to you specifically about that. That is something again that has to take place in stages so it works, to put it that way.

I'd like to say to you that I detect a very strong tone of negativity. I don't fault you; recessionary times bring that on in people. But if I have any advice for you, it is that the parliamentary assistants committee for small business is a vehicle you should be using and unfortunately haven't used at this point.

Ms Ciglen: Let me just respond to that. I appreciate, Norm, that it wasn't you and I speaking directly and that we were going through the officials at the Ministry of Industry, Trade and Technology. I'm sorry if what you were told was that we didn't have the time, because that was not the case. What we said was that we would like to come and speak to the parliamentary assistants committee about the labour law reform because that was the thing that our members were most concerned about at that time. We were told that was a no-go. That is why we did not appear. It was not a question of time, and I appreciate it was not a direct communication between you and me.

Mr Jamison: There must have been some misunderstanding. We didn't want that to predominate a meeting on looking at the tax structure.

Ms Ciglen: Anyway, that—

The Chair: Mr Sutherland, one quick question.

Ms Ciglen: Can I finish responding to Mr Jamison? There were some questions in there. Basically, the one thing that this government has done that has improved the lot of small business the most is raise the limits in the Small Claims Court. That is something we have been asking for for years and we are extremely pleased to see that. That is going to make a big difference to a number of small businesses.

The fact that there is a commitment to raise the limit province-wide to \$6,000 next year is again a help. I know the Attorney General has personally said that he's committed to having it go as high as \$15,000, which would be a tremendous help for small business. That's one of the best things this government has done. Under the previous government, the limit was raised but it was never proclaimed in force. It's something small businesses have been waiting for for some time and that's great.

With regard to the tax system, the trouble with looking at dropping a tax rate on corporate income tax as the budget did is that when businesses are not making any money it doesn't help them. It looks good on paper, but it doesn't actually put any more dollars in their pocket if they're not paying taxes now because they don't have any income now. The kind of taxes they are paying, no matter whether they're making money or not, are payroll taxes. They've got to pay them whether they're taking in any revenues or making any profits or not.

That's why we're saying that what would have made a bigger difference would have been some kind of break on the payroll tax level. The corporate income tax level looks good on paper, but for those businesses really hurting it's not going to give them any more money in their pockets to hire somebody. That's our concern and we come to basically tell you the facts about what's going on in small business.

The Chair: Okay, the clock has run out and I hate to interrupt the questioning going on here, but we'll have to move on to our next group. I'd like to thank you for appearing before this committee.

Ms Ciglen: You're welcome.

ONTARIO FEDERATION OF LABOUR

The Chair: The next group we've got coming forward is from the Ontario Federation of Labour. Do you have a handout, sir?

Mr Chris Schenk: Yes, sir.

The Chair: Okay, the clerk will pick up the copies there. I'd like to welcome you here to the standing committee on finance and economic affairs and your participation coming up on Bill 150. You have one half-hour and in that half-hour, if you can, leave some time at the end for questions and answers with the three parties. If you wouldn't mind identifying yourself, sir, for the purposes of Hansard and the committee here, you may begin.

Mr Schenk: Thank you. My name is Chris Schenk. I'm the research director of the Ontario Federation of Labour. I have a short presentation to make and time for your questions. Perhaps if you're running behind time we can help you out.

The Ontario Federation of Labour is pleased to present its views to the standing committee on finance and economic affairs concerning Bill 150. I want to run through part of the written presentation and part of it concerns details which I will leave for your own perusal. As you know, the vast majority of trade unions in the province, public and private sector, are affiliated to the Ontario Federation of Labour, consisting of about 800,000 affiliated members. Since this subject concerns working people, we are most interested in the provisions of the bill.

As you know, the bill has two parts. The first one concerns employee ownership and the second part concerns the labour-sponsored investment fund corporations. I will talk about these two parts in that order and then I'd like to present the case for a social investment fund, which would involve some changes to the latter proposal in the bill.

The first part is the employee-owned, labour-sponsored venture capital corporations. These are designed to encourage worker takeovers of firms in which they are employed. This concerns majority employee ownership. The participation of the federal government is also a question here in terms of the tax breaks. But, as you know, to facilitate the process of majority employee ownership there will be an Ontario tax credit of 20% to the first \$3,500 invested and up to 30% on incremental investments to a maximum annual investment of \$15,000.

1040

The Ontario Federation of Labour supports this experiment in employee ownership, as we noted in the OFL convention document, *Economic Renewal—Our Vision*.

"In periods of severe economic recession, it may well be necessary to exercise the option of buying out one's employer. Mechanisms allowing for employee ownership in the face of closure, such as Algoma Steel"—in the Sioux—"and Spruce Falls Pulp and Paper Mill in Kapuskasing, are valuable experiments and often the only alternative workers have to the loss of their jobs."

While such employee ownership therefore could make a welcome contribution to a more democratically structured and egalitarian society, we are not unaware that coming to grips with Ontario's economic problems will take considerably further innovation and more substantial economic intervention.

The harsh reality is that the option of majority worker ownership has rarely involved workers taking over strong and profitable firms. It usually emerges as a final effort to save jobs by taking over facilities that employers don't want for reasons of market difficulties, central to which of course is the level of corporate profitability. It is therefore difficult to see how this can form the basis for a widespread alternative to an increasingly unregulated market economy.

Fortunately, the government is addressing the issues of economic development in other venues such as taxation, skills development and institutional investment funds. We in the Ontario Federation of Labour will follow these developments with interest. None the less, we think the employee ownership provision is a valuable one and I would certainly like to leave you with that thought.

On the labour-sponsored investment funds, the other part of the bill, these are modelled on the Quebec solidarity fund and are designed to generate venture capital from employees. To qualify for a tax credit, individuals must make investments in a registered labour-sponsored investment fund. The qualifications and the tax breaks are generous. Nevertheless, there are questions concerning the philosophy and purpose of this fund which are not so easily answered.

First, to our knowledge, there has been no research presented to indicate that a lack of venture capital is a major problem in the economy of Ontario. Either we have missed something or you people know something we don't. We have never seen it documented that this is a major problem, and we think it would be valuable not to assume but to document.

Second, if there were such "capital gaps," the question that arises is, why should union members and other employees be the central focus of raising the necessary moneys rather than those individuals and institutions with capital who are in the business of providing it for a fee? If the rules are too rigid or the price is too high, surely amendments in these areas would come first and foremost.

Although working people in Quebec have supported the Quebec solidarity fund, on which the labour-sponsored investment fund is modelled, we remain unconvinced that there is any advantage for our members to use their hard-earned moneys for purposes of bailing out small companies, all the while remaining minority holders.

As an investment, the rate of return for Quebec solidarity fund shareholders has been very low. A Canada savings bond has a higher rate of return in the long term. If you looked at it over 10 years, for example, by the end of 10 years, even with the tax breaks, the Quebec equivalent of the fund you are establishing in this bill would not produce more than a Canada savings bond. We would suggest that the reason many Quebec employees have invested in the QSF is more for purposes of a tax break than an investment with a high or even comparable rate of return. Without detailing the evidence here, it is suffice to note that the Quebec solidarity fund record on job creation is also disappointingly low.

The Ontario Federation of Labour has long debated the role of such venture capital funds, including a lengthy discussion at our last convention. In our view, while majority ownership may well be an option for workers, minority ownership venture capital funds are not. They amount to buying into the margins of the economy without having any say over how it operates or how it is structured. Indeed, in being so peripheral economically and promoting a culture of tax breaks, such funds may function to divert attention from the important and complex problems of economic strategy and the substantial investment necessary for economic renewal.

A labour-managed social investment fund: The purpose of a social investment fund as proposed by the Ontario Federation of Labour is to channel a portion of workers' weekly savings into socially advantageous economic projects such as non-profit housing and environmental projects. Such a fund, designed with social targets, would necessitate

substantial amendments to the proposal for a labour-sponsored investment fund in Bill 150.

Let me give you briefly some background on this. The idea of a social investment fund is not a new one in Ontario. Indeed it precedes this government.

Back on January 25, 1989, the Ontario Federation of Labour met with the then Liberal Premier of Ontario, David Peterson, and several cabinet ministers on the topic of a labour-managed investment fund. Following this meeting, Mr Peterson wrote the OFL inviting the labour movement to consider the establishment of such a fund. This invitation followed a similar recommendation contained in volume 1 of the Premier's Council reports—the Premier's Council which was prior to the one now struck.

The Ontario Federation of Labour proceeded to establish a task force to review the notion of a labour-managed social investment fund. The report of this task force favoured the creation of a social investment fund, was adopted by the OFL executive board and passed by the delegates to the November 1989 convention. This issue was revisited, with similar results, by the delegates to the November 1991 convention.

Let me take just a moment to mention the key principles behind a social investment fund. The Ontario Federation of Labour task force produced a summary statement on four key principles that should inform such a project. These are useful for the committee in assessing the Bill 150 labour-sponsored investment fund and the OFL proposal and are therefore outlined below.

1. The objective: socially useful investment. That would be the objective of the fund. It would be to promote socially useful economic projects, the initial focus of which, we would think, should be affordable cooperative housing, initiatives in the environmental sector involving recycling and conservation technology and, based upon these experiences, perhaps certain types of community economic development.

2. What do we think are counterproductive pursuits? A labour-managed fund should not be geared, in our view, to trying to save plants that are threatened with closure. This problem must be dealt with through other mechanisms. Nor should the fund be set up to promote competitiveness in the manufacturing sector. Finally, the projects undertaken by the fund should not compete with public programs.

3. Part of a broader strategy: The projects undertaken by a labour-managed social investment fund will not solve our major problems. Rather the activities of such a fund should be seen as catalytic. Their purpose should be to increase the pressure on the government to support socially useful investment. A labour-managed social investment fund would therefore fit into our broader strategy of fighting for increased public investment social projects, working to politicize our members to increase their level of awareness and building coalitions for progressive social change.

4. Solidarity and the system of financing a fund: Workers who make deposits in a labour-managed fund would do so because they support the objectives of the fund, not because they are seeking tax dodges or higher capital gains. The financing of a labour-managed fund should be designed so that there is no individual enrichment as a result

of either tax assistance or capital gains. The only valid motivation is support for the social goals of the project and solidarity in doing so. The fund would offer a way for those workers who are able to channel a fraction of their savings into socially progressive projects in exchange for a relatively safe and fair rate of return. Under no circumstances would deposits in a labour-managed fund be an acceptable alternative to a pension plan.

The OFL task force stated at the conclusion of its outline of the above principles, "In any discussions that are pursued with the Ontario government, we must make clear that only a model that incorporates these four basic principles will be acceptable to the labour movement in this province." It is for this reason that we have taken the time to outline them for you.

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In conclusion, the social investment model that is envisioned is discussed in greater detail in the attached memorandum regarding a labour-managed social investment fund. It is submitted for purposes of providing a practical and viable alternative to the current proposal for a labour-sponsored investment fund. Given economy of time and space, only the key elements of the memorandum are referred to here.

First, it contains a basic description of the proposed fund, its capital base, the focus of the proposed investment activity and its policy regarding a fair rate of return.

Second, the memorandum concerns issues integral to a social investment fund that need to be worked out in concert with the government, such as the legal structure, access to payroll deduction, the pros and cons of various tax measures, the necessary startup assistance and the need for certain technical and feasibility studies. These are outlined, along with some cost proposals.

One additional point should be made here. The Ontario Federation of Labour favours including worker cooperatives as organizations that should be covered under Bill 150. This would involve including in part I, definitions, "an association of federation of worker cooperatives," along with trade unions. In our view, this inclusion should thereafter inform the act.

All of the above points concerning a labour-managed social investment fund are made within the framework of the principles discussed earlier.

In conclusion, we encourage all members of the committee to examine the enclosed memorandum, which is a concise overview of the full task force conducted by the Ontario Federation of Labour.

The Chair: Mr Evans just pointed out to me a few of the items in here where there have been some amendments to the bill. I believe your group has not received them as yet. Perhaps he can just go over the amounts there and maybe you can correct a few in your book, and the rest of the members, so when they're reading your brief it's correct.

Mr Jim Evans: In relation to both the federal and provincial budgets of 1992, there were limits that were modified in relation to the fund activity that you describe on page 4. I believe the asset limit for 1992 is \$50 million; the 20% of the Ontario tax credit will now apply to the

first \$1,000, with matching federal credits; and the limit will be up to the first \$5,000, not to the first \$3,500. That is on the fund activity only. The employee ownership is as you have described. It's my understanding that the government intends to introduce amendments to the bill to reflect those numbers I have just given you.

Mr Schenk: That was \$5,000 instead of \$3,500?

Mr Evans: Yes.

The Chair: I believe Mr Phillips had his hand up there.

Mr Phillips: I appreciate the brief. As you quite correctly point out, to accommodate the social investment fund requires fairly dramatic revisions to the bill as it's currently drafted. Is it the OFL's position that, as it's currently structured, the OFL has no interest in it and would not participate in it?

Mr Schenk: We would participate in the first part on employee ownership. That is a part that we think is valuable. In the Algoma Steel situation I think we virtually have a worker buyout. It's a valuable experiment and perhaps, as we state here, the only way to save people's jobs. It perhaps will lead to some interesting experiments in technology and work design as well, so we're very much in favour of that.

It's the labour-sponsored investment fund, which is to raise money from workers to give out to those small and medium-sized firms which allegedly have experienced capital gaps, that we don't think is valuable. We would much prefer to have that socially targeted, along the lines of what we suggest. So, yes, it is something that we think needs substantial amendment and it's something that we do not favour.

Mr Phillips: I guess there were words in here somewhere that suggest you wouldn't participate in it. I'm trying to find those words.

Mr Schenk: We are not interested in participating in the labour-sponsored investment fund aspect of the act.

Mr Phillips: Does it make much sense for the government to proceed with it, then? There are two groups, I think, that are eligible, yours and the Canadian Labour Congress. You're the huge organization here in Ontario. What economic value is there in even proceeding with this if you're not going to participate?

Mr Schenk: That would be something you would want to ask the government. I can only say that we had discussed this in the 1989 convention and we discussed it again at the 1991 convention. As a federation of labour, of course, we are an overall umbrella body that tries to coordinate and develop labour positions on issues like this. We don't have any way, other than moral suasion, of enforcing that view, so you may find some unions are interested in this and some are not, but I think we would do our best to put forward our view and the view these unions themselves voted on through their delegates at our conventions.

Mr Kwinter: I just wanted to make a comment. I'm delighted to hear your comments, because as the response I made to the previous presenter indicated, during 1989 when labour came to us and presented their ideas, exactly what you have outlined is what I envisioned was going to

happen. This particular piece of legislation does not respond to that. I echo the thoughts of my colleague Mr Phillips. If this was supposedly a labour initiative and it was supposed to be a response to that initiative and it doesn't address it, why is this being pursued? Because it doesn't do what it's supposed to do, that is, to help small and medium-sized businesses, it doesn't deal with the social fund labour wanted. It's neither fish nor fowl; it doesn't serve the purpose and doesn't answer the need. Do you have any comments on that, other than you say that's not for you to respond?

Mr Schenk: I'm not so sure there's not some need for these kinds of funds. The point I tried to make is that I have never seen documentation. I've never seen it empirically proven to me that there is a problem for small business in getting capital. I think the case could be made, perhaps, but I've just never seen that. I'm not opposed to raising and providing capital to small and medium businesses. I'm not at all trying to suggest that. I'm just saying that I haven't seen that. There just needs to be a case made there, as far as I'm concerned. I certainly would prefer the bill to have a social investment aspect to it.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): I just wanted to say that there's an impression that worker investment will be viewed in some cases as bailing out their employers. That need not be the case and may in fact never be the case, because the intention of this bill is not for employees to bail out their employers if they find themselves in particular difficulty. In fact, in certain situations it may be advantageous for employees, for example, in the cases where an employer may be retiring and wants to divest ownership in his or her particular business; it would be the sort of thing employees might want to gain control over or ensure that the business continue so they don't lose their jobs. That's certainly one aspect of this legislation that isn't seen maybe as clearly as it could be.

Wouldn't you agree that the Canadian economy is changing dramatically and has changed dramatically in the past few years, and our society is changing, our economic climate certainly is changing? It's my opinion at least that worker investment, worker involvement, the relationship between business and labour, has to improve. I think an opportunity like this for employees to invest directly in their jobs is positive. I can't see where one could suggest that's wrong or not a good thing. I think opportunities for people to invest in the province, that is, the tax incentives for them to invest, are positive ones. It means the government invests proportionately less than what the actual investors do with regard to tax incentives. I'm looking for an opinion or maybe a view on what you think the future holds for relationships between workers and employers and the relationship this bill will have on that.

1100

Mr Schenk: I'll try to answer you briefly. Yes, I agree the economy is restructuring and I agree it's beneficial for employees to participate in this economy more and more and to participate in the workforce. I'm certainly in favour of anything that moves us in that direction.

You gave the example of someone retiring from his business and an employee being able to buy it out. I agree

with you that should happen and that can happen under the employee ownership labour-sponsored venture capital. It's the other aspect of the fund I have a problem with because it limits you to minority status in the funds. It gives you absolutely no say in how this place is going to run. What you're really doing is using workers' hard-earned money to put into these businesses which are probably non-union, anti-union and may or may not be producing a valuable product or service to the community. If you socially target it, I think it would make some sense. I think that could be done under this bill. It would take some substantial amendments, but I think it could be done.

The Chair: I have to move on to Mr Sterling.

Mr Norman W. Sterling (Carleton): I'm interested in your brief because you're so much in line with the Ontario Federation of Independent Business, which usually is not an ally on other issues.

Mr Schenk: I don't know that we are on this one.

Mr Sterling: It sounds pretty similar, or maybe to the unsophisticated like myself it sounds similar.

Mr Schenk: It is now favouring social housing and those kinds of things?

Mr Jim Wiseman (Durham West): No, not even close.

Mr Sterling: I'm not aware that that's included in this bill; I think perhaps you divert off.

In the first part of the bill that you look at, under section 5 of the bill there's an obligation to present this to a "government committee" to approve the investment. What is your feeling in terms of the obligation of the government back to the workers who put their money in if this endeavour fails? Is there any obligation at all in your view?

Mr Schenk: What is the obligation of the government if the investment fails?

Mr Sterling: Yes. The government is basically saying this is a good investment. Do you believe the government has any obligation back to the workers?

Mr Schenk: This was for the labour-sponsored investment funds section?

Mr Sterling: Yes. The employee group has to make its presentation and there's some certification that takes place.

Mrs Elinor Caplan (Orlino): Mr Chairman, on a supplementary: I believe there's actually a requirement for order-in-council approval before—I see a head nodding. So it's much more than just an application. As I understand it, you must have order-in-council cabinet approval before the investment can be made.

Mr Sterling: What would your feeling be, representing the workers in this area, if the investment failed, if these people lost their life savings as a result of putting their money up?

Mr Schenk: I guess what I did here was try to focus on our alternative to that whole section. It is a different kind of fund than the government set up, so I didn't go through and look at all the pros and cons of those kinds of issues, to tell you the truth. I looked at the essence of what the labour-sponsored investment fund corporation was going to do and thought that this is not in line with what we in

the trade union movement have debated and developed policy on, so what I've tried to do is just counterpose a labour-managed social investment fund to that whole section of the bill.

Mr Sterling: We're dealing with this first section. I'm dealing with the first section, the worker buyout, which you have said you are in support of.

Mr Schenk: Okay. I thought you were dealing with the second section.

Mr Sterling: No, I'm dealing with the first one. Part of that is that there's a government committee which reviews the investment, ostensibly for the employees. Then there's an order in council, as my colleague has pointed out, which says in effect, "This is okay." Then we go out and we entice the workers to invest in this by giving them 20% off their first \$3,500 invested and 30% off the next up to \$15,000, as you've pointed out in your brief.

I think that if I were a worker and the government had approved this investment and I had put not only \$15,000 but \$150,000 into this business, which I am entitled to over a 10-year period, and it failed, somebody might be looking at the government and saying, "You guys approved this and I've lost my house." Would you not be taking that position, representing labour?

Mr Schenk: I would say that if you're going to take over a business like Algoma Steel, which is a concrete example, there is a tremendous risk involved. There's no doubt about it. That's the danger I see in this. While it's a viable option for people under certain circumstances, there are not many times when workers have an opportunity to buy a company when it's doing well. It's usually when it's not doing well.

Mr Sterling: Yes. I agree.

Mr Schenk: There are reasons why Dofasco didn't want Algoma. So there's a risk involved and I think employees have to be aware of that. There's a real chance that you can be successful and there's a chance that you won't be. That is a problem.

Mr Sterling: You're not answering me, then, are you?

Mr Schenk: You're saying that the government is supposed to guarantee—

Mr Sterling: No, I'm just saying that if you were representing these workers, would you be looking to compensation for your workers who had lost their investment? I've got to tell you, if I were a union leader I would be looking to the government to bail my workers out, especially when it has approved this investment.

The Chair: Mr Kwinter's got a quick supplementary there.

Mr Kwinter: I just want to ask a question and follow up Mr Sterling's question. When I was the Minister of Financial Institutions we had pickets outside our doors every day on the Astra/Re-Mor Trust issue. The point of the investors was that this was a licensed trust company of the province, and as a result of its losing money, the government of Ontario was responsible because it licensed it. They went to court. They went to the Ombudsman. It

dragged on for years and years and it was finally resolved with no resolution as far as the investors were concerned.

This is exactly the point Mr Sterling was making: If an investment into one of these funds goes to the cabinet and gets the approval, I can tell you, whether it's intended or not, the workers who invest will have the impression that this is sanctioned by the government of Ontario, it has been approved by the cabinet, and if there's a problem they will look to the government for redress, because, "Why did you approve this thing if it wasn't going to succeed?" I think, and my colleague has suggested, that somewhere along the line maybe we should bring in an amendment to clearly specify that there is no obligation on the part of the government and there is no redress or recourse to the government of Ontario so that is perfectly clear to the investors.

Mr Wiseman: You know that's impossible. I can't just sit here and let you get away with this. If a company town like Kapuskasing or Algoma is going to lose the main industry in that town, the province of Ontario is going to be called into it. The government of the day—it doesn't matter who it is—is going to be called in and they're going to say, "Why don't you save this?" As opposition members, you've been doing this on a continuous basis for the last 18 months.

Mr Kwinter: You misunderstand—

Mr Wiseman: No, I'm not misunderstanding, because what we heard earlier was that this fund was part of a vehicle to help save it.

Mr Kwinter: That's a different issue.

The Chair: I'm sorry, but the time has expired. I thought it was a short supplementary you had, a short question.

I'd like to thank you for appearing before this committee. I guess your address is on the pamphlet here so any one of the opposition or government members can address their concerns to your group. Thank you for appearing here.

Mr Schenk: Thank you very much.

1110

ESOP (EMPLOYEE SHARE OWNERSHIP PLAN) ASSOCIATION

The Chair: The next group to come forward is the ESOP Association. I'd like to welcome you to the standing committee on finance and economic affairs. You have one half-hour for your presentation. Can you leave some time at the end for questions and answers? If you will identify yourselves for the purposes of Hansard, you may begin.

Mr Perry Phillips: On behalf of the ESOP Association I would like to thank you for inviting us to give a brief on Bill 150. My name is Perry Phillips. I'm president of the ESOP Association.

Mrs Caplan: No relation.

Mr P. Phillips: No, as far as I know. To my side is Dave Clark, who is a director of our association.

Our association believes this bill will be one of the most significant pieces of legislation brought out in this decade. It will have a profound effect on all workers, their families and their standard of living. Documented research

in the United States has shown that both in Canada and the United States allowing employees to participate in the ownership of their companies increases productivity, one study shows, as much as 8% to 11% per annum, increases competitiveness, increases innovation and tends to anchor capital in Ontario, which is where we would want to keep it.

To achieve these results the legislation must be sensitive to the needs of the marketplace, both for the workers and for the owners of businesses. In the US over 22 pieces of legislation have been passed over 14 years dealing strictly with ESOPs. In the United Kingdom three legislative acts have been passed in the last four years, again dealing just with ESOPs.

If we look at the US, close to 10,000 companies have employed ESOPs, of which 90% are closely held companies or small to medium-sized, not public companies. In the UK over 100 companies have employed ESOPs. The relationship there is completely reversed. Over 95% of the companies in the UK are public, not private, companies. We feel that the difference lies in the type of legislation that exists in the different countries.

We believe this act is an excellent starting point and applaud the hard work that went into this act from the various ministries in putting together what is a very difficult piece of legislation. Our brief today highlights eight areas where our association believes the needs of the workers and the businesses can be improved on over time. Our comments and recommendations relate only to the ESOP portions of Bill 150.

I'd like Mr Clark to start off on our brief.

Mr David Clark: I guess our first point is that we believe the legislation is really directed at big company bailout situations like Spruce Falls and Algoma. Based on the US experience, we think that probably represents less than 10% of the potential ESOP market. Our concern is that the legislative requirements set out in the bill, while they may be appropriate for large companies like Algoma and Spruce Falls, will be too onerous for small and medium-sized companies. We think it will be an expensive process that a small company or medium-sized company will simply not be able to afford. As a result, they simply won't engage in the process.

Our recommendation in this regard is that there be a threshold established and "small business" defined and that if a company is a small business as defined by the act, the legislative requirements be less onerous and less costly. We think if that happens there will be a substantial number of small and medium-sized businesses that will participate in labour-sponsored venture capital companies.

There's legislative precedent, of course, for having thresholds. For example, in the Ontario Small Business Development Corporations Act there's a definition of small business. We suggest that a definition similar to that be adopted so that small and medium-sized businesses can participate. We're concerned that because of the legislative requirements they simply won't.

Our suggestion for a small business is that, first of all, it not be a public company or an offering company and that it have less than \$5 million in assets, \$10 million in annual revenues and fewer than 200 employees. If a company

falls below those thresholds, then it can in effect file a short-form application or a short-form business plan and not be put to the type of expense it would otherwise be put to, based on the bill as it now stands.

The second thing I'd like to talk about is control. It is a requirement of the bill that the labour-sponsored venture capital corporation acquire control or together with an outside party acquire control. Again, we think that may be appropriate for the large company bailout situations like Spruce Falls and Algoma, but we think it will discourage small and medium-sized businesses from becoming involved.

Owner-operators who have built up their companies over 25 years may have a number of reasons for wanting to get employee ownership in their companies: They may be a healthy company; they may want some additional financing to do some expansion; they may want to provide additional benefits to their employees; they may want to establish a succession plan—and we think this is very important.

A lot of owner-operators who may control a company through their family are getting on in years and want to retire. Their family's not interested and they would like to eventually turn control over to their employees. If they're required to turn control over immediately and not over an extended period of time, we think it's going to discourage them from becoming involved.

We think the control provision will be detrimental. Our suggestion is that the control be reduced to 35%, which would give any employee group a large say in the company and encourage owner-operators to get employee ownership in their company.

Those are the two things I wanted to talk about and I'd like Mr Phillips to carry on.

Mr P. Phillips: One of the issues we think is important is having a supply of companies to be purchased by the employees or by the workers. For example, if you take your kid to a toy store and everything's off 90% but there's nothing on the shelves, what's the point of it?

We believe you have to supply some kind of incentive to the owners to sell their companies. As the act reads now, under subclauses 10(1)(c)(i) and 10(1)(f)(iv), the employee-owned shareholder group will buy the company and receive treasury stock. In return the owner, by giving up treasury stock, is basically selling the company and receiving no consideration. The funds go into the equity of the operating company and he does not see any benefit for trading that company which he has built up.

We think this is a serious situation. In reading Hansard we found that Mr Evans, the executive director of revenue services, stated that ESOP may invest in newly issued or existing shares of a corporation. This is not spelled out in the legislation; we think it should be. Our recommendation is that when an employee group buys a company, whatever the situation is, it should either be allowed to issue treasury stock or buy existing shares of the corporation.

Finally, we questioned what would happen down the road if an employee group bought the company, and new employees who were hired or came into the firm wanted to buy into the same corporation. We feel the act has not addressed this issue. We would recommend the bill be

amended to provide a mechanism for additional employees to become shareholders after the original subscription.

That basically is our position paper. We're open to any questions you may have.

1120

The Chair: Fine. On the government side, Mr Wiseman.

Mr Wiseman: I don't have any questions.

The Chair: I saw your hand up from last time. I thought maybe you still had a question. Okay, Mr Sterling.

Mr Sterling: I agree with your concern over the complexity of getting into employee-ownership labour. It really is very difficult. When we were briefed by Ministry of Revenue officials at the first, I started to realize the hoops you have to go through. It really is a bill designed, in my view, for a very large employee buyout. I would like to see something in there. The problem is always that when you're dealing with a government guarantee thing—and you may have heard my question to the OFL representative before—it's always difficult for the government to lessen the qualifications it's going to be asked to come up with if the thing goes sour later. Notwithstanding that, I agree there has to be some limit.

The one part I have difficulty with in your representation, however, is the majority requirement. Would your suggestion of going down to 35% of the voting stock or the common shares, or whatever way you want to put it, not lead to the possibility of really fiddling with the whole plan in terms of owners jacking up the price of their stock by utilizing the grant in terms of what could happen overall? I mean, if I were an employer and if I were trying to be devious with your suggestion, I might say to my employees: "Look, we're going to get involved in this thing. You're going to get so much back out of this. The present stock is going to increase in value because the price of the stock will be inflated by the government largess, if you want to call it that, under this circumstance. Therefore, we'll be able to modernize our plant, make more money etc and you're going to get paid higher wages."

Isn't there a problem in that when you allow—I can see the reasoning behind the government's requirement that it needs to control 50% plus one share. I mean, if you say 35% you could say 20%; you could say any amount.

Mr Clark: I think there's no end of possibilities, and if somebody wants to be devious he can be devious. I think what the US experience shows is that a great many of the ESOPs in the US have far less control, and they're successful, they lead to more productivity.

I'm a lawyer. I act for small and medium-sized companies and I think private owner-operators are not going to want to get involved in this program if they have to turn over control right from the start. I think they would be quite happy to turn over control over a period of time if, for example, it was a succession plan. I think they should provide that sort of succession plan as part of their submission before the thing can be approved. But if somebody has built up his company over a long period of time and the only way he can participate in this thing is to turn over control and really not get any money for it, I just don't think it's going to happen. In a large company example like

Spruce Falls or Algoma, it's probably right that there should be control. But I'm talking about the smaller companies.

Mr Sterling: A quick question. In the American ESOPs that you are aware of, is the bait as attractive as it is in this legislation?

Mr P. Phillips: American ESOPs give something to everybody, as you'll see in our brief. Basically the employees get a benefit. In the US the employees actually do not put up any net worth to buy the company. The company is bought out by the future cash flows of the corporation. This is different from the approach we've taken in Ontario and across Canada. Basically the approach here is that the employee will put up some money and get the tax credit for that. In the States they also tend to give benefit to the lender so the acquisition can be made at a lower lending rate. They also give a benefit to the corporation, as well as the owner. Everybody wins in this scenario.

For example, in the UK one of the reasons they have not been successful in attracting privately held companies is because of the restrictions put on the owners in terms of telling them: "Look, you have to sell X%. You have to sell control." There're just too many variables out there. The owner may be 55 or 60, thinking of retiring in five years. If he could sell 35%, for example, he would get the benefits of employee participation at this point in time. If there was an option to buy the remainder, they could be put in place.

In terms of value and protecting the employees, the employee group, I would assume, would have to go out and get an independent valuation. A valuation of a closely held company for a minority would be at a discount from the value they would pay for 50%. So if the company were worth \$1 million and they paid 50%, they'd pay \$500,000. If they were only buying 35% and let's say they had a good shareholders' agreement that had an option and created some liquidity for them, that 35% might be worth \$250,000. So you're equating the risk of what the employee group is doing with the acquisition. That's where your protection comes in.

The Chair: We have some clarification from the minister's office.

Mr Evans: In relation to your observations around employee ownership, I want you to understand that the point you were making was a point that relates to subclause 10(1)(c)(i) in the bill. That talks to the acquisition of shares issued by a corporation. In the case of employee ownership, they could be shares that have been issued to a shareholder. The treasury shares are not a limit on the employee-ownership side. They can be shares acquired from an existing owner. Is that in any way at variance with what you've described?

Mr P. Phillips: When we read that, coupled with subclause 10(1)(f)(iv), where you cannot buy shares from an existing shareholder, we were concerned that the act was not clear. But if that is the intent—

Mr Evans: The intention in subclause 10(1)(c)(i) is to allow for the acquisition of shares from an existing shareholder.

Mr P. Phillips: That's fine.

Mr Evans: Further to that, under the regulating powers under section 37 of the act, it is my understanding the government is going to introduce amendments concerning the investor protection regime. I believe under those regulations, under the amended powers, there will be the ability to tailor the nature of the regime to ensure it is appropriate to the size and nature of the business being addressed. So in relation to the elements of your presentation that talk to the nature of the hurdles that would have to be overcome in investing in a small business, I believe it's the government's intention that the investor protection regime should be appropriate to the size and nature of the business, so there will be some attempt there to be flexible.

Mr Wiseman: I'd like to turn to a presentation we had a little earlier on in this process. I can't remember their exact titles, but they were from mutual fund investment groups. They've gone out and put this into the marketplace and have received people investing back into this fund, I think to the tune of almost \$29 million. They told us that at the beginning of that process they went into the money markets and said: "This is a very risky venture. This is risk capital and you should be aware of the risk nature of this capital."

Stemming from some of the questions earlier, given that they're told up front that you have a choice of putting money into this or not—it's like buying into other mutual funds or buying into the stock market; there are no guarantees there—do you think it's reasonable or even fair that there should be something written into the legislation saying either that these investors aren't going to be protected or that they should be protected by the government in the future?

1130

Mr P. Phillips: It's hard to protect someone from a bad investment. As far as the mutual funds go, they buy a portfolio of stock and therefore hopefully they're spreading the risk based on the portfolio of assets they've purchased, so you're not putting all your eggs in one basket. If I understand the question, you're asking, should the government protect those investors?

Mr Wiseman: Yes, give guarantees to protect those investors or write into the legislation that there are no guarantees. Is it necessary? Maybe I'm sitting on the wrong side, but I always thought about caveat emptor, buyer beware. What we heard earlier was just exactly that: "Don't enter into this if you're 62 years old, you've got three years to your retirement and you want to take your money out. This may not be the kind of investment you want to make. But if you're 30, you have a fairly healthy income and it's only 1% or 2% of your gross, you want to play with it and see what you can get out of it"—and judging from the numbers you've given us, it's possible that somebody could do really well with a managed portfolio—"then maybe that's the kind of venture you want to get into. But remember that this is called 'risk venture.'"

Mr Clark: I don't think the government should be guaranteeing anything. I think the government should be reviewing the thing to see whether the proposal makes sense and has the proper assumptions and so on and perhaps even has some long-term prospects for being successful.

But things can happen that nobody can predict, and that's the risk, so I don't think there should be any guarantees.

Mr Wiseman: Do you think the way this legislation is written in terms of the instructions that are being given—they're similar to the Ontario Securities Commission's requirements but they're slightly different, because they need to be for this kind of investment. In your opinion, are they adequate? Are they the kind of instructions that should be given in terms of making sure that investors know what they're buying when they buy?

Mr Clark: Frankly, I haven't focused too much on that part of the legislation. One of the things we discuss in our brief is that there seem to be a lot of subjective criteria that the minister or the advisory board is supposed to bring to bear, and we think that presents risks. We think there should be more objective criteria, more like the Ontario Securities Commission has. It's a little more predictable for people who want to engage in the process. It seems to deal with whether you've complied with the spirit and intent of the legislation, and we think that's just a little too broad and a little too subjective. There should be more objective criteria involved in the thing.

Mr Phillips: I really appreciate the presentation. The presentation we've heard today really got at the heart of some of the problems of the legislation.

The OFL, as you've heard—I think you were sitting here—said it's not going to participate in the big part of the venture capital one. You're on the other side on the worker ownership and I think you pointed out that if the objective of the bill is as stated, that is, to encourage employees to participate in their workplace, if the objective is to encourage employees in successful operations to participate we should listen carefully to some of your recommendations, because if the bill requires impossible hurdles for employees to get over, then we're going to be counterproductive.

I have nothing other than saying that I appreciate your comments. I think you've given us a lot to think about.

Mr Kwinter: Can I just get a clarification or maybe an expansion on one of the fable-and-fact points you

made? I think everybody agrees, as my colleague has just said, that the purpose of this thing is to keep companies going, keep them viable and be a benefit to the employees who are participating.

In your first fable and fact on page 2, you say, "Research shows that real gains are made only when employee owners have a chance to share the information and ideas they have on how they can do their jobs better." Later on you say, "Participation programs alone have little impact on corporate performance." My point is that you can be a non-owner and share, so that you can improve companies like Magna where they have input, lots of other companies where the employees have incentive programs to make suggestions, and you can have employee ownership where that doesn't happen. Could you just expand on that particular part of it?

Mr P. Phillips: I think your analysis is correct. The research has shown that where you combine the two, where you have the ability to basically control your workplace but then also see a direct result of that benefit, other than in a short-run, let's say profit/bonus, situation, that's when productivity improvements of 8% to 11% start to show up. In other words, the employee not only has the motivation to do better, he has the ability to control his own work space and therefore what benefits he does accrue to the company he will see in future.

Part of the participation, of course, is training the employees to understand this and to understand how to read a balance sheet and to understand if that they can cut their work from eight hours to seven hours or six hours and get the same amount of work out, then the bottom line improves and they will in fact reap the rewards. That's where the participation comes in.

The Chair: I'd like to thank you for appearing before this committee.

This committee will adjourn until 3:30 sharp this afternoon, when we have six other presenters. We'll start right at 3:30 so we can finish at 6 o'clock tonight.

The committee recessed at 1137.

AFTERNOON SITTING

The committee resumed at 1534.

The Chair: I'd like to welcome you to the standing committee on finance and economic affairs. This afternoon we're going to have presenters on Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments.

ONTARIO SECURITIES COMMISSION

The Chair: I'd like to welcome to the committee this afternoon the Ontario Securities Commission. I believe we have Mr Robert Wright, Mr Joe Oliver. Welcome. I believe we have another—

Mr Robert J. Wright: That's Catherine Wade.

The Chair: Miss Catherine Wade.

We have one half-hour, and if you can wind up leaving some time at the end for questions from the three parties, you may begin.

Mr Wright: I appreciate the opportunity of speaking to the committee with respect to a matter which is of considerable importance to the Ontario commission and the role it plays in the regulation of the capital markets in the province.

We've been engaged for some time in a discussion with officials of several government ministries with respect to the concept and drafting of the legislation and regulations relating to the Ontario investor and worker ownership program. Our goal has been to see that neither the commission itself nor the staff are placed in a position of either prejudicing our ongoing ability to regulate the capital markets of the province or alternatively that we deal with the initiatives of this proposed legislation in a way which will defeat its policy objectives.

The concepts in the bill and its amendments are a bit foreign to securities regulators. The intent of the bill, as I understand it, is twofold: to provide small- to medium-sized Ontario businesses with access to new sources of equity capital and to provide workers with the opportunity to have input into the ongoing ownership, management and direction of their employer. Obviously this initiative raises questions, particularly ones relating to investor protection, which you will want to ensure are answered.

Until now the existing framework in Ontario for investor protection in the capital markets is that set out in the Ontario Securities Act. While that act provides the commission with broad discretion, this discretion is to be exercised in a public interest context. The courts and the commission have from time to time had occasion to determine the scope of the public interest mandate and have consistently related and limited that concept to investor protection and the regulation of the market. The Securities Act and its regulations provide a strong investor protection requirement and mandate for our work.

Without the proposed amendments, Bill 150 would require full compliance with the Ontario Securities Act for both parts of the program. It is my view that such a requirement would almost certainly result in limited use of the incentives

provided for under the bill. Most of those who wish to avail themselves of them would either not be able to meet the requirements of the Securities Act or would find these requirements so costly as to prejudice the program. This comment is applicable to both investment vehicles.

From the beginning it has been apparent to us that unless the legislation and regulations were carefully drafted there would be a serious risk for either the commission or the program or both. The risk for the commission is that by granting exemptions under a new and expanded public interest concept, our ability to regulate the capital markets in the province will be jeopardized. On the other hand, not to do so would mean that the commission was by its processes effectively undermining an important government policy.

This problem became very evident in the Spruce Falls application. The decision of the commission in that case signalled our view of the need to draft the regime in a manner which will accomplish the policy objectives of the government while at the same time not affecting adversely the ability of the commission to perform its mandate.

In my view, the broad public policy considerations which are inherent in the objectives of Bill 150 are just not the same as the more narrow focus of the Securities Act. The mandate of the commission is, as I read the Securities Act and the decisions of the courts and the commission, the protection of the public and the regulation of the securities market to ensure a fair and efficient capital market in which the general public will have confidence. This confidence is critical to the capital markets and therefore to the economy of this province. It is for this reason we have made it clear that if the role of the Ontario Securities Commission is to change, it must be changed by legislation.

For a number of reasons, it is my view that the appropriate regulatory model for investor protection for the investment vehicles provided for in Bill 150 is something other than that provided in the Securities Act and regulations. It will not surprise you when I express the view that the investor protection features of the Securities Act should not be abandoned without careful thought. They have served investors and those seeking capital very well over the past 50 years and in my view there must be good reason to abandon the framework, either entirely or for a limited purpose.

1540

Having said this, I do not believe the current regulatory regime can accommodate the spirit and intent of Bill 150. To accommodate the policy objectives of Bill 150, a choice must therefore be made to revise the Securities Act, which is a law of general application, or to develop a separate regime under the bill itself. Our choice, in order to make the intention of the government clear and to clearly limit the extent of the change, is the latter.

This is not the first time the government has been faced with this difficult decision. The cooperatives situation is one such example. Investors who invest in cooperatives are provided with an alternative, and I might say, less stringent

model of investor protection than that existing under the Securities Act.

The bill creates two new investment vehicles. One is the employee ownership vehicle, such as that used in the Spruce Falls and Algoma situations. The second is a mutual fund with features somewhat different from the mutual funds with which we are familiar.

I have reviewed Bill 150 and the amendments with the staff. I accept that they set out a clear role for the Ontario Securities Commission which should not prejudice our general mandate.

I'd like to discuss for a moment the employee ownership vehicle. As I have mentioned, the OSC has had the task of dealing with one of these under the Securities Act prior to implementation of the bill. The Spruce Falls acquisition matter was difficult for both the staff and the commission. The level of protection both expected and requested by those involved in that transaction was different from and less than the level contemplated by the Securities Act. Of particular concern to the promoters of the transaction and the dealers involved was the regulatory requirement that there be a full-blown prospectus and that dealers should meet their statutory duties to "know your client" and to advise clients based on the suitability of the investment in question. These are considered key elements of investor protection for those buying securities. It was their view that these investor protection measures should not be imposed.

Staff of the commission did not agree with this view and the issue was taken to the commission. After a public hearing, the commission granted an exemption from certain of the investment protection provisions of the Securities Act, while making it very clear that future applicants should not expect similar treatment.

The mindset of the investor in these situations is not in my view the mindset of a person looking to whether this particular investment fits his or her portfolio. Rather, the investors are weighing such things as whether they'll have a job in the near future, whether their children will have the opportunity to grow up in the community, whether their major investment to date, their home and their mortgage, will have value and whether they will be forced to relocate. These are not issues which registrants under the Securities Act have been trained to consider when providing investment advice. They are individual life decisions.

The regulatory framework of prospectus disclosure and advice by trained investment counsellors does not in my view, when balanced again cost, create a benefit of equal value. Perhaps more important, it would not provide an adequate level of investor protection. Reliance on the normal securities regulatory regime would not provide an adequate basis for decision-making. This in my opinion is true of employee investment vehicles which are not in financial difficulties as well as those which are.

As most of you are aware, the Ministry of Financial Institutions, its counsel, Stikeman Elliott, and other ministries have worked very hard to determine the appropriate level of investor protection. We have participated in this process to ensure that the regulatory regime necessary to achieve this level is in place.

As the person ultimately responsible for securities regulation in this province, I believe very strongly that all investors in the capital markets should be afforded the appropriate level of investor protection. In my view, there are investor protection features now provided for in the bill and its amendments. These include requirements that there be a business plan, the consideration by an advisory board of the commercial viability of the project, the requirements of a supervised vote of the employee investors and the control in a trust account of employee funds. These requirements provide a measure of protection for these investors. Given the desire of the government to encourage this vehicle, they are in my opinion more effective than those presently provided in the Securities Act.

I'd now like to turn to the second investment vehicle created under Bill 150. The funds proposed fall squarely within the definition of "mutual fund" in the Securities Act. We've had the opportunity to deal with one of these fund vehicles prior to implementation of Bill 150. Working Ventures, from which I understand you have already heard, was the first labour-sponsored venture capital corporation in Ontario. To date, its funds have been invested in fully liquid and fully secure investments as a result of a condition imposed by the commission pending completion of this legislative process. The investments in which Working Ventures must invest within the next two years in order to maintain registration under Bill 150 are, however, not nearly as liquid and may be speculative in nature.

The Ontario Securities Commission, together with the other Canadian securities administrators, has implemented a policy on a national basis which sets out guidelines as to investment criteria and other investor protection-based criteria to which mutual funds must adhere in order to distribute their funds in the province. These criteria have been considered by this and other commissions to be necessary to meet the public interest mandate of the legislation we administer.

There are two basic principles inherent in the investment criteria under this policy: diversification and liquidity. As you are probably aware, mutual funds do not trade; rather they are bought and then redeemed. In order to fund investors' requests for redemption on a timely basis, a mutual fund must have access to cash which is ensured by the liquidity of the underlying investments of the fund itself. Diversification of portfolio attempts to provide a reasonable safeguard against the possibility of sustaining losses materially affecting liquidity if any particular segment of the economy fails.

The funds created under Bill 150 will not have the same levels of liquidity and diversification as are required of other mutual funds sold in this province. Liquidity and diversification are investor protection features, and this should be recognized. This issue is unavoidable in a vehicle which promotes investment in small to medium-sized businesses which otherwise have limited access to the capital markets. It is also inherent in the provisions of the bill which allow for significant investment in a particular enterprise. The design feature of tax credit recapture if a redemption occurs within five years from the date of purchase may also create a monetary constraint to the ability

of investors to access the redemption features inherent in a mutual fund.

In making these observations, I do not want to be taken as saying these investments are not meritorious. In my view, however, it is important that these issues be considered and balanced with the policy objectives underlying the creation of these new investment vehicles.

To encourage participation in the equity market for investors who might not otherwise invest in the market or who might not otherwise invest in small to medium business, the government is proposing what is in effect a revenue bill which provides tax credits to such investors. The tax credit not only provides an incentive to invest; it can be seen as reducing the real cost to the investors. In addition, the amendments include a reduced recapture of tax credits where the investment has lost value between the time of acquisition and the time of resale or redemption if such event occurs within the period for which recapture is applicable. These are features which may make the investment attractive and may balance other features of the funds.

Unlike the employee ownership initiative, it is presently contemplated that the provisions exempting these funds from the liquidity and diversification requirements imposed upon other mutual funds offered in the province will be implemented by way of regulation to the Securities Act. While it would be my preference that such regulation be dealt with by way of amendment to Bill 150 or pursuant to regulation under that statute, thereby making it very clear that these are somewhat unusual investments and are being authorized for policy reasons outside the Securities Act, it is not critical to the commission that this be done, as it is in our view with respect to the employee ownership vehicles.

Our degree of comfort with these proposals is subject to the resolution of certain issues which I understand remain outstanding. In particular, Bill 150 requires valuations to be undertaken in respect of both vehicles. The valuations are important for the program. In particular, the pricing of the shares will be based on the valuations, as will the redemption price.

As I understand it, it has not been determined who should have the responsibility for regulating to the extent deemed necessary the preparation of the valuations and the independence of the valuer. We have made it clear that in our view this should not be left to the OSC. The OSC does not currently review or assess valuations for the purposes of investor protection. While under some OSC policies guidelines have been provided for preparing valuations and determining the independence of valuers, we have left ultimate responsibility in these matters to the entity which retains the adviser.

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This is consistent with the whole concept of securities regulation. We are not equipped and do not have the expertise to ensure the validity of the valuation or the valuation procedure. Our role is to ensure disclosure by issuers to all investors who are being asked to make a decision in relation to their investment. It is not and has not been a role which in any way assesses or passes on merit. Any significant involvement of the OSC in the consideration of valuations would involve a new responsibility for us and

would require legislative instruction on the nature of the mandate and how it is to be carried out.

The Ontario Securities Commission will continue to fulfil its mandate under the Securities Act to the best of its abilities. It also will fulfil whatever mandate is given to it under Bill 150 to the best of its abilities. As presently contemplated, this initiative does not adversely affect our ability to carry out our responsibilities nor will the discharge of our responsibilities be likely to jeopardize the policy initiative which Bill 150 reflects. We trust that, as the program is finalized, this will continue to be the case. Thank you.

Mr Sterling: Thank you very much for your brief. I assume, therefore, the bottom line is that the OSC doesn't really want to be involved with these two investment vehicles.

Mr Wright: I don't think it's quite right to say we don't want to be involved with it. We're quite prepared to do what we're asked to do, but we think it's appropriate that we might have a role where we determine that, for instance, a summary of a valuation or of a business plan is a reasonable representation of the plan. Where we do not think we should be involved is in any way assessing whether the business plan itself makes sense. We don't have the capacity to do that.

Mr Sterling: This morning we had some other people—I know at least one of your people was here—and the question I asked was that it seems, under Bill 150 and particularly the first plan, the employee ownership plan, the government is requiring or almost sanctioning the investment in terms of its viability, etc. They're asking for significant plans with regard to what's going to happen, etc. Would the concern you have, in terms of taking on that role, be the upshot of a failure? In other words, what would happen as a result of the failure and the investor coming back to the OSC saying: "You sanctioned this investment. What went wrong?"

Mr Wright: No, I don't think that would be our concern. Frankly, we approve prospectuses, and occasionally companies who have filed prospectuses with us either go under or the stock price goes down. That's something we live with.

What we're concerned with is that in any way we would be involved in a process which suggests we think that—for instance, supposing there's an advisory board that says this investment is commercially viable. It may be possible for an advisory board to say that. It is not possible for us to say it. We don't have the people who can make that kind of assessment and it's not the kind of thing we do. The same is true for a valuation. We have said in certain of our policies that companies, when they're doing things, have to provide a valuation. We've given them some indication of who can do the valuation but we don't pass on whether the valuation is good, bad or indifferent. That's up to the shareholders, if something goes wrong.

Mr Sterling: In your scenario, or in your normal function under the Ontario Securities Commission, if the investor interprets the information in such a way and invests but loses, then he loses and that's the end of the matter in terms of his investment, as long as the prospectus—

Mr Wright: Could I just interrupt you here? That's not quite right. It's right the way you've said it, but I'm not sure it's the question you're asking. If an investor loses because the information is wrong, the investor has rights but not against the commission. The investor has rights against the issuer. If you exempt employee ownership vehicles from the Securities Act, unless there's something else in the bill or in the arrangements, there may be no such recourse for the investor. I'm saying that with reasonable—

Ms Catherine Wade: There will be civil liability, but it's individual.

Mr Wright: Yes, there is civil liability, but it's a new issuer.

Mr Sterling: If I'm reading your brief correctly, you're saying that there's a higher degree of investor protection needed for employee ownership.

Mr Wright: I hope the brief doesn't say that, Mr Sterling, and if it does, I think it would be expressing a view which is not ours to express. What I've tried to say—and not everybody at the commission agrees with me about this, but I feel fairly comfortable about saying it notwithstanding—is that the kind of investor protection provided under the Securities Act will not, in my opinion, give very good value or very much comfort to an investor buying under the employee ownership particularly and specially in a case where it's an investment in a troubled company, to save a company.

I have made it very clear to anybody who's asked and to some who didn't ask that, in my view, you can't ask the commission to deal with those vehicles under the act. We said that in effect in the Spruce Falls decision. There has to be some other arrangement to provide whatever the government determines is an adequate and appropriate level of investor protection, but it's not up to us as a commission to say what that level is.

The Chair: Okay. We'll have to go on to Mr Kwinter. Four minutes.

Mr Kwinter: I want to follow that same route because we discussed that this morning. One of my concerns is that if an investor purchases a stock on the Toronto Stock Exchange or any of the other exchanges governed by the Ontario Securities Commission, that investor has a certain confidence that this stock has met the requirements of the filing: There's a prospectus, certain standards have been met. As you say, you certainly don't warrant or guarantee that these companies are going to succeed, but you do warrant and guarantee that, in all cases unless there's fraud, the prospectus truly states the state of the investment.

My concern is this: Under this act, every vehicle covered by Bill 150, as it goes to the advisory committee and everything else, ultimately gets to the cabinet and the cabinet makes the decision that, "Yes, we have seen all the representations and we are satisfied this is a vehicle that qualifies under our program, or we're going to approve it." Then that begs the question: You said the securities commission is not there to provide redress, but something else has to be there.

Given the fact that this gets the seal of approval of the Ontario cabinet, if the company does go down, my concern is

that those investors will be looking to the Ontario government for protection on the assumption that, "You approved this thing, this is your proposal, it's not through the securities commission, you have given it your approval and we would like you to compensate us for it."

How do you get around that? I know it's a problem, but I can tell you that, as Minister of Financial Institutions, I've lived through it with the Astra/Re-Mor situation. I've seen what happened in Alberta when the Canada Deposit Insurance Corp went to \$60,000: The government topped it up another billion because it felt it had no choice politically. How do you deal with that?

1600

Mr Wright: I think the only possible way you could deal with it is to make very clear whether or not there is a back-stop like that. If you don't make it clear, then I would think there would be a risk such as you are talking about. There are features of the bill, as I read it, including particularly what's before the advisory board, which could lead to that, and, of course, as you say, cabinet approval.

I think it would be only fair, in some kind of disclosure document or whatever, to make it very clear either that there is a back-stop, if I can use that word, or that there isn't. One of the features of what we try to do at the commission is to say there has to be full, plain disclosure. I would think that should be a feature of this aspect as well.

The Chair: Mr Phillips, you have one minute.

Mr Phillips: This is a whole very important issue, and I think you've quite correctly identified that these are unique situations where people's lives are really at stake. This isn't an investment; this is their future.

The proposal here essentially says to a group of employees, "Get your plan together and then send it off to an independent board." It would do the advising. I share the concerns of my colleagues here: I think that once the stamp of agreement is on, five, six or seven years later people will have an expectation that it has been looked at by an advisory board. Is there a better vehicle? Is there another way of doing it, for example, saying, "Here are the criteria that must be satisfied and you, the employees, have to have done all of these things using whatever outside counsel you want to use and have satisfied yourselves on that," as opposed to this one, which is essentially to prepare it all, send it to the government and it will approve it? Have you examined a better alternative?

Mr Wright: I'm not sure that it's really up to us to examine the alternatives, and frankly, no, we haven't. We have been concerned about whether or not there is recourse in the event that something untoward happens. I think the best I can do is repeat again that I personally think that, either in the legislation or wherever, it should be clear whether or not there is disclosure, whether or not there is that back-stopping, and that there should be full disclosure to the employees, the people who are buying this. Either they do or they do not have some recourse if this thing doesn't turn out as everybody hopes it does.

Mr Stephen Owens (Scarborough Centre): Mr Wright, as the parliamentary assistant to the Minister of Financial Institutions I want to thank you for your presentation.

I know your staff has worked hard on the regulations and at looking at some of the protections we're talking about here today.

In terms of the health warnings and the disclosure process that I understand is going to be part of the process, and indicating in plain language that the investment, like many other investments, is a risk, I'm getting the sense from yourself—and perhaps I'm incorrect—that perhaps another level of protection or a different kind of protection is required. Is that a correct sense?

Mr Wright: I don't think it's a correct sense. In my judgement there are—and I know some people don't call them this—what I consider investor protection features in Bill 150. They are things like the preparation of a business plan, the participation of an advisory board and the other things, and I've mentioned one or two others. Whether those are adequate investor protection features, frankly, I don't know, and I don't think it's up to the securities commission to say. They are investor protection features, and I would go so far as to say that in my view—this is a personal view—they are more appropriate and better than the requirements in the existing Securities Act when applied to purchases of securities.

I do think there should be very full disclosure of what the risks are. I don't want to be taken as saying I think the investor protection is appropriate, but I certainly don't want to be taken as saying it isn't appropriate either. I'm saying it's better than if you'd just left it under the Securities Act. In fact the program would not work under the Securities Act.

Mr Owens: You've mentioned the issue with respect to recourse if in fact something happens down the line and the investment goes down. Even with all the protections, the health warnings and plain language and people understanding that what they're doing is inherently risky, and in the employee ownership scenario under a company that may not have made it anyway, do you still see the need for recourse for investors?

Mr Wright: I do not want to be taken as saying I see a need for recourse for the investors, because I think that is very much a matter for the people who set the policy and pass the legislation to decide. All I meant to say was that I think it should be clear whether or not there is recourse. It's a personal view, frankly, whether there should be recourse. If you want a personal view from me—maybe you don't, but I'll give it to you—I don't think there should be recourse, but I think that I should know.

The Chair: I'd like to thank you. Time has expired and I don't think we want to send out for supper tonight. I'd like to thank you for coming before this committee with your presentation.

1610

CANADIAN AUTO WORKERS

The Chair: The next group to make a presentation is the Canadian Auto Workers. I'd like to welcome you to the standing committee on finance and economic affairs. If you have a handout, the clerk will hand it out for you. We'll have half an hour, and if you can, leave some time at the end for questions and answers. If you wouldn't mind,

identify yourselves and your positions for the purpose of Hansard. You may begin.

Mr James O'Neil: My name is Jim O'Neil. I'm the secretary-treasurer of the Canadian Auto Workers. With me is Sam Gindin, assistant to Bob White, the president of the CAW. We have a brief. I thought what we'd like to do is read over the first few pages, and then Sam Gindin would like to spend some time, just five or 10 minutes, explaining some of the attachments and hopefully leave about 15 minutes for some questions.

Worker venture funds, the rationale: Worker venture funds are, first of all, a response to a failure in how Canadian capital markets work. New companies, particularly smaller and mid-size companies, have had trouble getting access to finances for investment. The idea is to get workers to put their savings into a central fund that can correct this market failure and therefore support the strengthening of our future manufacturing base. Tax breaks—very generous tax breaks—are the inducement for workers to participate in such investments. The involvement of workers is also viewed as a democratization of the economy.

But is this the appropriate way to deal with a legitimate problem? Does it really contribute to job creation? Is it a good investment for workers? What about the implications of the tax breaks? Does it really contribute to worker control? Does labour have a better alternative? Can workers' funds solve the failure of the capital market?

A worker venture fund would necessarily remain a bit player in the overall scheme of things. The Quebec solidarity fund, in place now for eight years, has assets of some \$425 million, a good portion of which come directly from the taxpayer. Allowing private pension funds to invest a further 10% abroad, as the federal government has just done, could mean losing 50 times as much funds as the Quebec solidarity fund has accumulated. The Caisse de dépôt is another matter. Having control over massive funds like the Quebec pension fund and the workers' compensation fund, which are accumulated through premiums on all employers and workers, it has been a major player in Quebec's economic development.

Why are so much of our savings ending up in speculation, real estate or leaving the country? Why aren't they being invested productively? Why, if we need funds in Canada, is the federal government easing the restrictions on sending pension moneys outside our country? Shouldn't we, at a minimum, be discussing greater regulation over the banks and other financial institutions? Common sense suggests that focusing on working people to solve a major problem in Canadian capital markets is either marginal or a cynical and ultimately very costly diversion from dealing with the real issues behind private mismanagement of the country's savings.

Won't they create some jobs in Ontario? Workers investing in such funds face limits that capitalists do not normally face: You can't take your money out if the return is poor—the investment is locked in—and the ultimate investment of funds has to take place in Ontario. These are positive features from the perspective of job creation in our province, and the job argument seems to be reinforced by the only example we have to look at, the Quebec solidarity

fund, which, it is argued, has maintained or created some 23,000 jobs. But this must be put in the following context:

(a) There are reasons to believe the Quebec numbers are an exaggeration. But even if we accept them at face value—an average of less than 3,000 jobs per year—this has not made any kind of dent in Quebec's unemployment rate. Quebec's unemployment rate has not improved at all relative to Ontario's in spite of the dramatic deterioration of Ontario's manufacturing base, and Quebec lost more jobs in the latest two months than the Quebec solidarity fund supposedly maintained or created in over eight years.

(b) Where such a fund does play a prominent role in preserving a facility important to the community and the future, the point remains that even if no fund existed the government should and could be acting directly to save those jobs.

(c) If the government used the taxes it is providing to subsidize venture capitalists more directly, would it create equivalent numbers of jobs? If the taxes were used to alleviate pressures on public sector jobs, would this create equivalent numbers of jobs? Is this, in other words, the best use of taxes for a job creation strategy?

Are such funds a good investment for working people? The extremely attractive tax breaks of these funds are used to lure workers into the funds. The relatively low rate of return and the risk involved keep other investors away, and without the tax breaks workers would not be considering them at all.

For workers saving for the future, however, the issue is long-term: What will they have when they retire and how secure will it be? While venture funds might get a return of about 5%—the experience of the Quebec solidarity fund showed an average return of 5.1%—safer funds might get more than twice as much. Canada savings bonds over the same period earned an average return of 10.5%. The advantage of the seductive tax breaks is, because of the lower return, eroded over time.

We have put together some numbers in attachment 1. While they are not conclusive and do depend on assumptions made, they suggest that as an investment for retirement the benefits, even after the tax breaks, are questionable. For workers close to retirement and with relatively higher incomes, the investment may generate more moneys than alternatives, although the risk factor is higher; for younger workers and relatively lower-paid workers, other investments are likely better.

Moreover, and again based on the Quebec experience, the limited ability of workers to generate savings in today's economic circumstances means that such funds are competing with the traditional focus on pension funds. The tendency to erode future pensions in favour of venture funds is, for working people, a dangerous mistake.

If we want to do something about retirement income for workers, let's do it directly by improving on the CPP and OAS through higher premiums and let's make sure the funds are also invested productively in Canada so that in the future Canada will have the strong economic base that can support retirees.

Is the tax break a sensible tax? Corporations get all kinds of tax breaks. What's wrong with workers also getting some?

This particular tax break represents a regressive and unproductive tax reform. First of all, if it weakens worker opposition to corporate tax breaks by buying us off with some crumbs, we've been had. We should be attacking those tax breaks to the rich that are unfair and serve no defensible social purpose. Second, the tax break is not for workers as a whole but is only for those workers with enough savings to invest in such funds, and, when combined with RRSPs, the tax breaks are higher if you earn more. Workers who are unemployed or who end up working part time or who are unorganized or who are simply having trouble making ends meet are not going to share in the tax goodies. Third, it erodes the tax base at a time when funds are desperately needed for health care, education, infrastructure, training, housing and other social programs.

What does this have to do with worker democracy? The workers' venture fund does not control the companies it invests in. Essentially, it is shifting workers' savings and taxpayers' moneys to others who do have control, although when it comes to risks, the workers are very involved. Nor do the investments even have to meet social criteria like the existence of a union or an affirmative action program. In short, it offers neither workers nor their representatives any significant control over the economy.

Other jurisdictions and the business community have supported such funds and articulated the rhetoric of democratization and partnership while simultaneously attacking working people when any concrete democratic measures are actually put on the agenda, measures like increasing the capacity of workers and unions to participate in the economy by providing us with more information about specific sectors; providing resources so we can do more of our own research towards the development of economic alternatives; democratizing, through regulations, private decisions that have a social impact; introducing greater worker input into corporate decisions before they are allowed to close plants and offices; expanding the commitment to widely available and broadly defined training for workers so we have the tools and skills to increase our participation in the economy.

In the debate on worker participation, our union places its focus on the combination of such directions and measures, measures which develop workers' skills, strengthen their organizations and reinforce workers' rights.

Conclusion: The Ontario federation alternative: If the government is serious in its intent to increase worker participation in the economy, it hardly makes sense to begin by introducing a proposal the labour movement has itself rejected, and rejecting, while talking about worker input, the proposal the labour movement is recommending.

The Ontario Federation of Labour has considered worker venture funds at the executive board and at convention. The conclusion was that such structures were not in the interests of working people and we developed an alternative: attachment 2, the social investment fund. This alternative would cost the taxpayer no more money and would offer workers a place to put their savings that promises both a secure rate of return and a socially progressive use of those funds. Instead of tax breaks to individuals, government funding would go directly to the fund. Instead

of dabbling with venture funds and pretending that this held the key to developing our economic base, the funds would be used to support low- and middle-income co-op housing or integrated into a broader green industrial strategy.

We strongly urge the government to withdraw its current proposal and seriously consider introducing an alternative based on the OFL model.

Mr Sam Gindin: I'll take you through the attachments and then maybe we can have questions. I won't take long.

The first attachment is an earlier letter we sent. While the brief concentrates on the worker venture fund, the attachment also comments on the question of workers directly owning their own factories or workplaces.

I think the second attachment is more important. We tried to deal with the issue that when you have a tax break, you obviously do very well in the short term but you're locking yourself into a lower rate of return in the long term, and at some point the two lines cross. The example we chose is to take two workers. To make it comparable, we imagined the first worker investing in the fund and getting a 40% tax break: he invests \$10 and gets \$4 back, so he invests \$6 but gets a return on \$10. In the second case, we take a situation where somebody with the same \$10 just pockets the first \$4, so that it's the same as the first individual, invests the other \$6 without the tax breaks, so gets his return only on \$6.

In that table, we took the actual performance of the Quebec solidarity fund, and we see in the column under "value" that the solidarity fund shares go from \$10 to \$14.80. Then we compared that to somebody who only started with the \$6 investment because he didn't get the tax break. We take that through based on the Canada savings bond average for each year. What you find is that after about 10 years you're in the same place and after 10 years you actually begin to fall behind if you're locked into the solidarity fund type of investment.

1620

You can make that more complicated by throwing in the rollup of the RRSPs; that extends the period at which they cross, but they do cross. There's a table there that people may want to ask some questions about.

I want to make one point on that table, because one of the changes both in the BC model and the Ontario proposal was that people could actually take their money out after eight years. I presume that was partly a response to what the table shows, that if you leave it locked in it turns out to be not a very good investment for the long term. The problem with having the option to take it out after eight years is that it contradicts other objectives of the program. If you take it out after eight years either it simply ends up costing the taxpayer a lot more money, because every eight years you take it out with one hand and with the other hand you put in an equivalent amount and get the tax breaks again, so you get a lot more tax breaks, or from the worker's perspective you obviously have to pay the tax when you pull it out, which removes some of the advantages. If you do take it out it defeats the point of making this into some kind of savings plan for retirement, which was the original rationale for why it was locked in.

The second attachment I think you may have seen earlier today when the OFL was here. It just summarizes the OFL's alternative. I want to emphasize that it's an alternative in the sense of a different direction based on some different principles rather than a detailed proposal. I attached an example of how that alternative might work in terms of a social investment fund that essentially issued shelter bonds or green bonds.

Maybe we can take questions now.

Mr Kwinter: I'd like to address this to Sam Gindin, with whom I've had the pleasure of debating over the years as he talked about things like free trade. I'm puzzled. The reason I'm puzzled is that I was approached by labour representation in 1989 about their plan to put up a social fund financed by workers, wanting the support of our government, which we gave and which we felt had some merit. What has happened on the way? This is supposedly a labour-oriented fund, and to date, and from the presentation you've made—I see the signatories, Gordie Wilson, Julie Davis, John Calvert, Sam Gindin, Hugh MacKenzie, John O'Grady and Robin Sears, all signing a document that essentially says: "Labour has rejected this plan. We have another idea." Why hasn't that idea come forward? This was certainly a government initiative. It certainly implies that it's to benefit labour. So what happened on the way?

Mr Gindin: You're looking for possibly the first thing we have agreed on, Monte. I guess this started with the Liberal government approaching the Ontario Federation of Labour with whether it would be interested in the fund. The response of the OFL was that we weren't interested in the kind of fund that discussions were about, but we wanted an alternative. I wasn't part of the actual meeting with the Liberals at the time but, as I understand it, what you said is basically true: Your response was that you'd be sympathetic to looking at the kind of alternative we put forth.

The OFL has been lobbying on this kind of proposal although, to be honest, there is some division within the labour movement. Although this did pass our convention, there was a debate over it. I can't tell you what has happened since then. I think the Ontario government is basically following the Quebec model. It looks like that's what's happening across the country. Part of this may be that the federal government matches the tax credits, and if you changed the structure of the fund you'd also have to get the approval of the federal government that would go along with it. I don't see why that should be a problem.

From our perspective, we really don't understand why, if this is supposed to be a labour-oriented fund, the alternative put forth by the labour movement isn't what we're discussing today. Maybe somebody else can answer that question. I can't answer that question.

Mr Carr: I can't answer it, but I'll ask my own question; it's along the same lines, though. With the opposition you've shown, obviously you've had a chance to discuss numerous issues with the government. How far along in the process did you have a chance to sit down with the government and say, "We don't like this"? Did they pop the bill on you and say, "There it is," as sometimes happens, and then you're into it and sometimes it's tough to back

out politically? How far back down the road did you voice your opposition to this plan? When and where and so on?

Mr Gindin: Let me comment on that, because I was involved rather than Jimmy at that point. First of all, the debate that was taking place before the last election wasn't taking place in secret. The position the labour movement came out with was well known. Robin Sears was actually one member of the subcommittee that discussed this. The position was distributed, so our position hasn't been a secret. There may have been an assumption that the Quebec-type fund was acceptable; I don't know. But about the middle of September 1991 we were contacted that there were hearings taking place and that this was very far on the way. I think we had something like a week or 10 days to put together a brief. That's why we've enclosed the attachment. We were surprised that it was moving ahead so fast and moving in a different direction, so we quickly put together that letter to lay it out. Nothing has happened since then; no one has contacted us to say, "Let's talk about this alternative."

Mr Carr: It seems to me to be something that has been driven not by the government—forgive me, some of the people who work in the ministries—but it seems to be a bureaucrat-driven initiative, where the government has been pushed. Of course there are two options that come in: the policy up through the people in the various ministries and then the one that's set by the government of the day. This seems to be one that has been driven, going as far back as the Liberals—again, I don't say it in the negative sense—by the same people working in government; we refer to them as bureaucrats. They pushed it during that period of time and are pushing it now, and they seem to be successful. Is that your assessment, that it isn't a policy of the government, but that the bureaucrats have pushed this forward?

Mr Gindin: I don't know. That may very well be the case. I'm less interested in who's doing it and more interested in stopping it and getting it changed.

The Chair: Mr Kwinter. There's one minute left.

Mr Kwinter: I'd like to ask another question. It seems to me, just by the very dynamics of the presentations made to us by the Ontario Federation of Labour and by the CAW, that this whole project is doomed to failure. How could you possibly encourage an employee to buy into a program where the two major entities in the labour movement are saying, "This is of no consequence, a terrible deal, and we don't think it should be done"? How do you deal with that?

Mr O'Neil: If you're asking whether, if this happens to pass, we will encourage, in fact we'll discourage workers and will lay out what we think are the consequences of investing in this program. So we will not be supportive; there's no question that at the end of the day we will not be supportive of this bill if it gets passed.

Mr Kwinter: Yet it's supposed to be—

The Chair: We have to go on.

Mr Kimble Sutherland (Oxford): If I understood your presentation correctly, what you're saying is that the

idea of some type of worker-sponsored venture fund is fine if it goes far enough in terms of dealing with some other issues you have concerns about: (a) a guaranteed return and (b) some democratization in the workplace, or some say in how the company is going to work or how the economy is going to. Is that basically what you're saying? In other words, this doesn't go far enough in terms of dealing with the concerns that the labour movement has about its involvement in the overall thing. "All you're asking us to do is put in the money, but you're not allowing us to have any say in how it's operated." Is that what the concern is?

1630

Mr Gindin: No, I don't think that's a fair characterization. I think we're really saying we'd like to see this thing move in a different direction, a direction which in some ways is less ambitious. We're saying there really is a major problem in how capital markets work in this country, and you can't expect to solve that by trying to get voluntary contributions from workers. We think that's the wrong direction to go and that to lure workers with major tax breaks which may not be in their long-term interest is also a dangerous thing to do.

What we're suggesting is something quite different. If the idea is to mobilize workers' savings, we're saying the best way of doing that is to say to workers, "Okay, maybe you will get a lower rate of return, but in exchange for that you'll have a safe rate of return and you'll know that what the money is being put into will be socially useful, like co-op housing or a green industrial strategy, and you may have some input into making sure it's done in an innovative way." We're not saying this would be a vehicle for solving the co-op housing problem or replacing the government, so at that level it's more modest, but it would illustrate something that could be done.

Mr Sutherland: I want to take an example, let's say one of the plants that maybe even CAW has organized. Due to some of the rationalization that's gone on, the plant is still making money and has been making money, but companies are rationalizing, they're setting their priorities and they don't want to operate that part of the branch, or a buyout has occurred and they've bought out their competition, so now they're going to close it down.

You said you're concerned about pension contributions, but if that plant closes down, there aren't going to be any more pension contributions. In that type of scenario, in the long run, is it not in their interests to try investing to keep it going so there are ongoing pension contributions and so in the long run they will have an adequate pension? In that type of scenario, would you encourage your members to look at it?

Mr Gindin: No. There may be circumstances, in kind of an ad hoc way, where it makes sense for workers to say, "We think there's no alternative to getting involved in worker ownership." It's different from what we've been talking about. This is a worker venture fund. Direct worker ownership might, in certain very specific situations, make sense, although we wouldn't recommend that as a general model. The idea that workers should take their savings and

put them into things businessmen don't want to put into or have decided are going to be failures makes no sense. If you're a worker and you're afraid of losing your job, it makes a lot more sense to invest your money in something else rather than to throw it at something that seems to fail. I'm not objecting to the fact that there may be unique circumstances, and I think Algoma might have been one, where this would make sense, but it doesn't fit as a general solution to those kinds of problems at all.

The Chair: Mr Sutherland, we've run out of time.

Mr Sutherland: Okay, I'll have to pass.

The Chair: With the brief here I imagine there's an address where you can get a hold of Mr Gindin. I'd like to thank you for coming before this committee with your presentation.

Mr Gindin: Thank you.

Mr Kwinter: Put a mark on the calendar. We both agree on something.

INVESTMENT DEALERS ASSOCIATION OF CANADA

The Chair: The next group to be here is the Investment Dealers Association of Canada. I'd like to welcome you here to this committee. We have one half-hour, if you can leave some time at the end for questions. If you wouldn't mind identifying yourselves and your position for the purposes of Hansard, you may begin.

Mr Michael Mackasey: Good afternoon. My name is Michael Mackasey. I'm the chairman of the Ontario district council of the Investment Dealers Association of Canada. We have been involved in the early stages of consultations on the issue of labour-sponsored investment and ownership plans. We are pleased to have this opportunity to meet with members of the standing committee on finance and economic affairs to discuss Bill 150.

The district's concern with both components of the legislation is similar: We believe that the dual aims of the program, worker ownership and increased liquidity in the capital markets, are not substantially achievable through the two mechanisms set out in the bill. The costs of \$250 million for the program's first year are sufficiently high to make the success or failure of the program a matter of general concern.

A central theme of the program appears to be that there is insufficient capital currently available for the restructuring of business on the scale the government would like to see undertaken. We believe there are enormous pools of readily available capital for Canadian enterprise, which are only waiting for the appropriate economic conditions to be employed as equity in the restructuring of the Canadian economy. In the absence of appropriate economic conditions, the government has chosen very narrowly focused tax incentives, in the case of employee investment funds, to free up capital for small cap Ontario businesses. In so doing, the risks of speculative investment have also been focused. In our view, the government would be better advised to apply its fiscal and policy weight to the development of a far more broadly based incentive to capital formation.

There exists already in Ontario a system of public equity markets that, judging by the press of foreign delegations, is the envy of the world. The market system is the only true means of broadly assessing the value of company shares and there is a far broader spectrum of investment options available in the public markets than there will be in either of the investment vehicles proposed in Bill 150. The appeal to the investor is the tax benefit, and the prospect of retained jobs in the case of the ownership plan, not necessarily the underlying investment, as we believe should be the case. This approach creates distortions in the marketplace that would not be present if the government focused on providing a broad framework for efficient markets.

We have heard it widely suggested that the government will examine policy options to encourage the listing of small businesses some time in the near future. We encourage this. While this presents its own set of policy challenges, it also presents the opportunity for greater market efficiency and liquidity.

Although not necessarily a direct concern of the government of Ontario, the high capital gains tax structure in Canada, particularly when compared with average tax rates on dividends and income, has discouraged individuals from participating in domestic equity markets. The tax reform measures introduced in the late 1980s have shifted the incentive away from risk investment. Effective capital gains tax rates have increased by more than one third under tax reform, bequeathing Canada with the highest capital gains tax rate of any major industrial country; further, the capital gains tax rate exceeds the rate on dividends. The tax system creates a disincentive for risk investments which provide return primarily on the increased asset values rather than dividend payouts. The tax structure thus discourages the growth of small and medium-sized businesses which will come to depend on public markets for equity capital as they grow.

We have some specific comments on Bill 150. The first is with respect to employee investment funds. We understand from conversations with officials that one reason for the structuring of this incentive in its current form is the availability of matching dollars from the federal government. We consider this reason to be insufficient. We can clearly understand the government's interest in structuring an incentive on that basis, but we see little public policy benefit to it. The taxpayers in Ontario will foot their share of the bill regardless of whether they do so through taxes at the provincial or the federal level.

We would prefer to see a more broadly based incentive rather than a narrowly based one selected for the sole purpose of the multiplier arising from federal contributions. We are concerned about the credit risk that some of the venture funds will present. There will be less reason for the fund's managers to be concerned about the fund's investment objectives, we think, if governments on the surface provide 80% or more of the cost of the investment. This is also a particular concern if the fund is not subject to the regulatory review of the Ontario Securities Commission and either the full force of the Ontario Securities Act or some other regulator or regulatory authority set up to deal with it.

On the basis, however, that such a policy is already in place, particularly from the federal government, we would express our strong concerns with respect to employee investment funds, that all such funds that are set up to function under this bill be structured under stringent guidelines. Items such as liquidity, quality of management of the funds, fees and expenses of the funds, startup costs, their use of proceeds, regulatory supervision, their method of distribution and, in particular, the valuation question are all items that must be strongly considered.

1640

Under the topic of worker ownership plan, we support the government's program to encourage worker ownership. While this program has been widely reported as being an option for a range of employee ownership initiatives, from hostile takeovers to employee buyouts at the time of a founder's retirement, we believe the conditions in which such buyouts will be attractive are relatively narrow, for the following reasons.

Since under this program employees are required to acquire control of the employing company, their resources, within the \$5,000 to \$15,000 range provided, must be sufficient to acquire that control. The deal can't be so small that regulatory and underwriting costs are prohibitive. The equity in the corporation has to be worth something. The current owners have to be willing to cede control. The government, with scarce resources, has to be willing to approve the proposal, and therefore it must represent a fairly compelling case.

We believe that, properly used, the employee ownership buyout will assist an orderly transfer of ownership to employees in situations in which market conditions have made sale to an independent third party difficult. In these cases, and we hope in only these cases, the public subsidy of the purchase price would be acceptable to ensure that viable situations or companies can survive, and we expect that the lost tax revenues at the early stages will be more than recovered through future profits of the enterprise.

As long as the program is administered in that manner and is not designed to prop up businesses which are doomed to ultimate failure through natural changing markets or technology or other economic conditions, and as long as securities regulations are followed, we support the government's initiative in this view.

One specific comment we do make is the difficulty with the threshold of control and that this might be reconsidered. It may be more effective, given the size of some of these transfers, that the amount of money required to be raised to fully control the company is large and that the program can apply to significant equity ownership by the workers in conjunction with the changing control, as opposed to dictating that majority control go to the workers. We feel such a relaxation might add to the universe of healthy investments and give the public and the government more leverage in these situations.

We could go on considerably with a list of constraints. It is our assessment that many, if not all, of these situations will continue along the lines of the Spruce Falls deal, as a bailout option for some companies. In this regard there seems to be general support among investment dealers for

this approach as an alternative to outright government bailouts. The worker ownership approach can significantly reduce the cost to taxpayers of either a company bailout or the social assistance that may be required to provide transitional support to a whole community should a linchpin industry fail. The cost to taxpayers is reduced to a one-time payment of 10% to 20% of the company equity, with considerably reduced ongoing liability.

When assessing this program in the light of the government's objectives of worker ownership and venture capital investment, it is doubtful that this program meets the test, however. The investment's value to workers may be minimal in conventional investment or regulatory terms. The payoff for the workers is the survival of their economic base.

From this analysis we conclude that if the government is interested in increasing the scope of this program, it should seriously consider whether it's necessary for workers to have control of the restructured company, as I've already suggested. We also believe it is important to develop an understanding of the role of pivotal regulatory concepts, such as the "know your client" and suitability provisions, of these transactions.

I'd like to thank you for the opportunity to comment before the committee today. We are at your disposal to answer questions.

The Chair: Mr Sutherland.

Mr Sutherland: Actually, I think I'll pass to Mr Johnson.

Mr Johnson: Thank you very much for coming today with your submission. I listened with a great deal of interest to what you had to say. I'm curious to know your own opinion. Bill 150 becomes law and now there's an opportunity for people to take advantage of all the options within that law. How often do you think the worker ownership plan—how many businesses are there, because you mentioned something about this, that you expected there wouldn't be many options where this would actually be put into place? I was just wondering if you could elaborate on that a little more.

Mr Thomas Dalzell: In answer to that, I guess what we're really getting at in that section is to point out not so much the total number of businesses that would be eligible or would want to make use of this sort of situation, whose employees would want to do so, but more to talk about the narrow focus. If you look at the program in total—and I went back to look at some of the Hansard discussions—there were an awful lot of possibilities that were raised as options for using that particular section of the bill.

We want to narrow our focus and say, "Look, we have some experience through one of our members, Spruce Falls, and looking at budgetary constraints and other factors, we think the real use will be in this one narrow range." Now, we could be wrong. That would depend entirely on how much money the government made available and what the intention of the government is in doing it. That was just our assessment so we could narrow the focus of our response. I suppose the use that's made of it will largely depend on how it's received once it's generally known and what the economic conditions are.

Mr Johnson: I'd like to say too that there are certain situations where it won't be a bailout situation. This isn't the intent of the legislation. The intent of the legislation isn't to encourage employees to bail out their companies; it's to encourage employees, where a company is still viable, to become involved and to go for that option, which will be made available under this legislation.

Mr Dalzell: That's perhaps an unfair term we used in that regard. Certainly when we were talking about such matters as the necessity that there be true value left in the shares and so on, we were referring to the fact that the potential investors, the employees, would have to regard this as being an ongoing concern, at least for some period, before they would be willing to come up with the money required. So that's not contrary to our view.

Mr Sutherland: There's been quite a bit of discussion today about the ability to access capital. We had the Canadian Federation of Independent Business here this morning and a survey indicated that 25% of its members have indicated they've had trouble accessing capital or problems with their institutions. They're not always happy with the mainstay financial institutions.

I guess too that the last time we went through a recession, with some of the impacts on the banking industry and for small investors and medium-sized companies as a result of some of the problems with Dome in 1982-83, financial policies tightened up a great deal in terms of accessing capital. Given the nature of some of the events that have been happening in the last few weeks and the last couple of years, do you see access to capital becoming a more difficult thing, particularly through the mainstay financial institutions?

Mr Mackasey: Currently in today's environment, with respect to the banking system—and I'm not a banker; you may want to ask one; you may disagree with me—with the Olympia and York problems and real estate values in general, what we typically see at the end of any recession is that the banking system tends to tighten up and become much more restrictive in terms of its propensity to lend money and its risk profile. That tends to loosen up as economic conditions improve.

At the same time, in the event that you've had a restructuring of companies, admittedly a painful but probably a healthy restructuring over the longer term in terms of cutting costs and becoming more efficient, to those people who provide equity in smaller situations—I don't want to use the term "venture capitalists"—both on the venture capital side and on the mezzanine capital side, the return commensurate with the risk will start to get back into line, as asset values have declined and returns will become generally more attractive. My feeling is we will probably see more equity money over the next few years forwarded to smaller situations, as opposed to what we see right now. We saw that coming out of the recession of 1982. We saw that in 1983-85 where we saw a lot of smaller situations coming to market for the first time in initial public offerings and having their equity listed.

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Mr Carr: I don't know if you were here earlier for the presentation of the Canadian Auto Workers. They basically

said that they don't see anybody investing in the worker ownership plan. What is your assessment of how much activity you'll see if this bill goes the way it is now?

Mr Dalzell: I guess there were two points discussed there. One is the question of, what would the impact be of the fact that those two organizations might be sending out a negative signal on this thing? I guess the other main issue is, is it a viable program? We have the one instance of Spruce Falls already. I suppose, under certain circumstances, it's going to be a viable program. Particularly where jobs are at stake and so forth, you're going to find people certainly considering it. That particular element of the program is relatively broadly based.

As to the matter of what impact union or non-union membership would have on that, I think you'll find that it'll be mainly judged on the circumstances at the time.

Mr Mackasey: Just following up on that, I've not been directly involved in the previous issue, the labour-sponsored fund side as opposed to the Spruce Falls side of it. I think that over the long run, whenever a new issue is brought to market or whenever a mutual fund or another kind of investment fund or vehicle is brought to market, that's the time typically when you raise the most money. I think how much money you're going to raise in these kinds of vehicles over the long term is going to depend largely on how the funds treat their investors in terms of return, risk, liquidity and so forth.

I think the concerns of the gentlemen before us were that the historic returns on these funds, particularly the solidarity fund in Quebec, have not been terribly good. Their concern, I think, was that enticing people into funds with essentially short-term tax incentives, particularly when part of that tax incentive, to my knowledge, in Quebec has been discussion of placing the units of the fund in your RRSP, can be a detriment for the long term if not handled correctly by the management of the fund.

You're asking me how much money will be raised. If you look at the mutual fund business in general, although this is different, typically the moneys are attracted by the managers and their track record over time. I think that's what the test will be.

Mr Carr: Just on that point, you say that how the fund responds is going to be the big question. What criteria do you see as the most important? I know people obviously look at track records, but what do you see as the most critical things for them to do?

Mr Mackasey: I think clearly the most important aspect of any fund is its management. I have some concerns with respect to the valuation of these funds, both on the illiquid and difficult, in many situations, challenge of valuing what is going into and coming out of the funds.

I also have a concern with the illiquidity aspect, particularly of smaller situations. It's okay to put 20% or 25% or 10% of a private company into a fund and its shares, but when it comes time for the investor to take his money out, where does the fund get the money to pay the redemption when the underlying assets themselves are not necessarily liquid? As such, we've seen funds in the UK that in themselves have either had to bring the underlying investments

public—they've been at it since 1945. They ended up going into a closed-end structure and listing themselves on the stock exchange and allowing liquidity in that view, but that's different from what we're talking about here.

The Chair: Before we go on to Mr Kwinter, Mr Evans just wants to make a comment—I guess a typing mistake or whatever was in the brief—just to identify a figure here.

Mr Evans: The Investment Dealers Association of Canada brief refers to \$250 million for the program's first year. I believe that's a quotation, probably from John Whitehead, and in fact the \$250 million is a treasury estimate of the cost at maturity. Strictly speaking, 1991 was the first year of operation. Spruce was the only employee ownership operation, Working Ventures was the fund, and the tax credits in that year were \$8.2 million. That's merely a question of fact.

Mr Dalzell: That's correct. We did get that.

Mr Kwinter: I want to thank you for your presentation. I agree with virtually all of it. I just want to ask you a question. It's hypothetical, but given the vehicle that is described in the proposed legislation—and you're an investment dealer—and removing the fact that someone may feel this is the only way he can protect his job, if someone came to you, given all of the other investment vehicles that were available, is this the kind of program that you can, in all consciousness and knowing your responsibility to know your client and everything else, something that you could recommend over and above other vehicles that are available?

Mr Mackasey: I'm sorry, Mr Kwinter, are you referring to the labour-sponsored funds or to the one-off Spruce Falls kind of—

Mr Kwinter: To either one.

Mr Mackasey: We'll refer quickly to the one-off Spruce Falls type of employee ownership. It would clearly, upon investigation, depend on the determination of return, on the viability of the business and basically to analyse the situation on a one-off basis to see if the investment return, commensurate with the risk involved in entering into the deal, is worthwhile when compared with other alternative investment choices out in the marketplace, which range anywhere from 30-day government of Canada treasury bills to some venture capital funds. Whether it would be recommended would be clearly one of economics and looking at the situation independently.

With respect to the funds, because of the longer-term nature of the funds—essentially you're investing in a blind pool and leaving all the investment decisions up to the manager of the fund as opposed to having a chance to look at each individual piece of business that goes into the fund—before I would recommend it to anybody I would certainly want to know the manager's track record, his view on investment merits, how the fund will be able to pay me out, what the expected returns are etc, and compare that with the spectrum of investment product out there.

Mr Dalzell: I'll respond to that also. Certainly in talking about the funds, the clear purpose of this is to move investment into areas where it hasn't previously been

achievable at an economic return or not at the level the government would like to see, so it almost becomes a matter of definition, that if you simply strip away the really substantial tax credits there's going to be something to be made up there.

On a kind of Spruce Falls deal, there seemed to be a number of different levels at which—and you mentioned suitability in particular. First of all, the mere fact that the money is there, the tax credit is there, creates an opportunity for people to look in that direction and that, I'm sure, puts a focus on something that wouldn't have been considered as much, perhaps, in the past.

I also point out what the CAW mentioned before—I believe it was the CAW—certainly the previous group mentioned the fact that if business isn't going to invest in it by definition, then why should workers invest in it. There may be cases where there's some overall strategic move that a company is taking to do something and it might make sense, in the short or the long term, for the workers to step in in that situation where it didn't make sense for the business.

Finally, on the specific issue of suitability, there was certainly something we heard back from our members who had been involved in Spruce Falls. Specifically, you get into the situation of whether such relatively large chunks of money are suitable investments for investors who typically may not be terribly high in the earning bracket and so forth. I think that raises real questions and it was probably addressed obliquely in some of the remarks about what kind of regulatory structure this would have to be under.

The Chair: Mr Kwinter, the clock has run out. I would like to thank you, gentlemen, for coming before the committee.

1700

ONTARIO CHAMBER OF COMMERCE

The Chair: The next group to come before the committee is the Ontario Chamber of Commerce. Mr Eastman, you're by yourself today?

Mr Don N. Eastman: Yes, I'm all on my own right now.

The Chair: Okay, I had two names down here. I'd like to welcome you again to the standing committee on finance and economics. Your face is quite familiar around here.

Mr Eastman: No, I'm not by myself.

The Chair: Would you identify yourself for the purposes of Hansard. I believe it's Mr Couto.

Mr Joe Couto: Yes.

The Chair: You're coordinator, economic policy, correct? Okay, fine. We have half an hour, until 5:30. Please leave some time at the end for questions from the committee.

Mr Eastman: Thank you for having us. As you've heard before, the Ontario Chamber of Commerce represents 165 local chambers of commerce and boards of trade and about 65,000 businesses in the province.

Before I begin to address Bill 150, I'd like to ask your indulgence for a couple of seconds. I've just come from our annual convention, three very full, very hectic, and I'd

like to think very productive days in Windsor. We are tired of crabbing, complaining and generally depressing ourselves about the political economic climate we find ourselves in. We dramatically changed what we normally do at that convention.

Instead of spending most of our time on a series of specific policy resolutions, we committed ourselves to developing a positive strategy for economic prosperity in Ontario. It's called Ontario Today and Tomorrow: An Agenda for Renewal. It's a strategy for all stakeholders in Ontario's economy and recognizes the interdependence of quality social programs and a healthy economy. We commend it to you and would be delighted to discuss it with you either individually or on a group basis.

Turning to Bill 150, we have some general concerns about the consultation process that preceded this legislation and some concerns about the proposed legislation.

Let me begin by expressing some frustration. The day before the original set of hearings were to begin, I and thousands of other Ontarians received this leaflet in my newspaper: Take Advantage of New Tax Legislation.

I consider the timing of this leaflet to be an insult to the consultation process that was supposedly under way and an insult to the responsibilities of this Legislature. The presumption of automatic passage of the legislation is offensive, even if it does reflect political reality.

On the consultation process, this government has taken some bold and positive initiatives in improving and extending the consultation process in the province. By opening up the process, the government has helped all of us to better understand what that process could be and should be. It's in that context of understanding that Bill 150 can be seen as the product of a consultation process that really didn't begin soon enough.

For a consultation process to be truly effective, it has to begin at the problem definition stage: "We have some concerns. We think this is the problem we are dealing with. Is this the right problem? Have we described it properly? What are we missing?" It's only when that stage is complete that we can begin to talk productively about possible solutions.

Bill 150 has been another one of those consultation processes that didn't begin at the problem definition stage but with: "Here's our solution. What do you think of it?" That's certainly better than no consultation, but it sure leaves a lot of room for improvement.

Our major problem with Bill 150 is that when we work our way through it, it attempts to deal with several perceived problems at once and as a result doesn't deal with any of them as simply, effectively and positively as we think they need to be dealt with. We see two major pieces of new legislation rolled into one document, and as a result neither piece is receiving the focused attention it deserves. The employee ownership labour-sponsored venture capital corporations are addressing problems that are very different from those addressed by the labour-sponsored investment fund corporations. We are all for consistency, but not at the expense of clarity and focus.

Let's address the labour-sponsored investment fund corporations portion of Bill 150 first. The objective of this

portion of the act is to assist employees in buying the companies they work for.

While a lot of wonderful things have been said about employee-owned companies, their track record here and elsewhere is mixed. There have been some successes, some failures, and in a number of instances it's simply hard to tell. Certainly, for some companies in trouble, employee ownership is an option that may make it possible to salvage companies and jobs that would otherwise be lost.

We endorse the concept of the provincial government facilitating employee ownership under these circumstances, but we do question whether this is the most effective, most responsible way of proceeding. We have a sense that with some more imagination, it should have been possible to work with the RRSP concept to free up investment funds.

There is a positive role for the province to play in facilitating the process. The legal challenges faced by a worker group in contemplating a buyout are immense. By simply providing assistance through that process, the provincial government could be immensely helpful with relatively little direct cost to itself.

What is before you may actually be the best way of solving this specific employee ownership problem, but we are not comfortable that the alternatives received sufficient attention.

One of the concerns we had with the initial version of the bill appears to have been addressed in the government amendments. The initial proposals would have permitted an employee group to proceed with far less than majority support of the affected employees. A majority of the relevant unionized employees would have sufficed without regard to the relevant non-union workforce. That was a necessary change and it appears to have been made.

The portion of Bill 150 that is much more problematical is the one dealing with employee ownership labour-sponsored venture capital corporations. At the risk of sounding a little dull, we are not sure what problems this portion of this bill is trying to cure; and, yes, we do understand that this portion of the bill has been largely driven by federal initiatives.

Let us list some of the problems this portion of the bill is apparently trying to address, at least in part: increase the number of people in the province who have a clear and visible link to the market economy through investment in companies; increase the funds available for relatively new, developing companies with difficulty of access to traditional sources of capital, and increase the financial resources and financial clout of the unions.

We're not sure that the list is complete, and we hesitate to list the union "problem" in that fashion, but there's no other way to explain the exclusivity of what's being proposed. If we had started the consultation process at the problem definition stage, it's highly unlikely that process would have arrived at the set of solutions we see before us.

We have deeply rooted concerns about legislation that uses tax money to turn the labour movement into investment bankers, even if that legislation is stimulated by a federal initiative that was itself inadequately considered.

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Is the labour movement so much in control of the other challenges it faces that it can afford to divert the substantial time and effort required to competently manage this investment activity?

Is it fair to Ontario's taxpayer base and competing requirements for funds for health, education and social services to use tax money to substantially subsidize labour movement activities?

What effective constraints are possible to prevent the union movement from using this new-found, tax-based financial power unfairly in the marketplace? For example, unless your small company has a union connected with a labour-sponsored venture capital fund, should it forget about access to this source of money? That's a concern, not a conclusion.

We encounter a great deal of legislation that diverts the province's real resources into non-productive activities. We are concerned that we have already overinstitutionalized our savings and investment. The result is that we appear to be losing a lot of our savings to administration costs instead of productively investing them. We need legislation that simplifies the investment process, not further complications.

We wholeheartedly endorse the concept of broader share ownership in the province and feel this would assist an appreciation of business and market realities that is sadly lacking in the current environment. Unfortunately, we do not believe the proposed legislation moves us forward on these very legitimate objectives.

Ideally, we would like to see Bill 150 divided into two pieces, with a positive problem definition-based consultation process for both of them. If that is not possible, the legislation should at least be opened up to eliminate the union exclusivity.

Mr Sutherland: First of all, thanks for being here. The pamphlet you passed around was of course sent out by an organization, and for whatever reasons, it has decided to do that before legislation is passed in its final nature. It may be a bit presumptuous on their part to know what the final outcome is going to be and whether they are going to be eligible.

I just had a chance to glance through this other document you gave us, *An Agenda for Renewal*, and may I say that I think it's a very good document overall. It's very constructive and positive. It doesn't mean I agree with everything I saw in it, but overall I think you should be complimented for taking a very positive and constructive approach in terms of outlining some ideas as to where you think the province should be going in terms of economic issues and other issues. That was certainly striking in terms of some of the comments on social issues in there, as well. I just wanted to make note of that and I hope you will take that back to your people. Certainly I'm only speaking for myself on that, but I thought overall it was a very positive document.

Mr Eastman: Thank you. I shall.

Mr Carr: I also had a chance to put your document forward to the Treasurer today. He said that he liked some

things in it, and as Deputy Premier and Treasurer, hopefully he will have the authority to do something with it, although two days ago I gave him your resolutions during January and February or February and March and he wasn't as receptive. So maybe changing the format from a resolution style might help a little bit in terms of getting it through. It is helpful.

Just on this particular piece of legislation, one of the concerns small businesses in particular have is that governments of the day seem to be—I think I've referred to it this morning as worrying about mice in the basement when there are elephants on the roof. They'll put a program together for whatever reason, but it isn't the most critical question. Some of the business groups that were here this morning said that. If you looked at it, they said, in terms of rating priorities, financing was farther down the list, behind taxes, regulation and so on. Is that your assessment as well?

I'm thinking particularly from the small businesses' perspective, which normally aren't involved in a lot of complicated investment deals. Is that what your membership is saying, that in the overall scheme of things they're looking at something that isn't as important as taking a look at the taxes, regulations and all the other things slowing down business?

Mr Eastman: Yes, I think that's a fair assessment if you were to look at the things in order of their relative importance. Certainly the regulatory burden and the whole paperwork challenge, for a small business in particular, is immense. If that could somehow be streamlined, I think we would all benefit from it. Taxes are easy to focus on and, boy, we sure do a lot of complaining about that with more than a little validity.

I think the access to capital will depend on the specific company. It is not a universal problem, but certainly there are companies out there that have that problem. One of the reasons that arises is that we have institutionalized savings. The normal access to capital for a company in a small-scale startup operation is being diverted into such things as RRSPs where it's no longer available. With friends, family, cousins etc, who you could normally rely on for that kind of capital without having to put together a great formal business plan etc, it has been dried up.

Mr Carr: That's what a lot of businesses I've talked to say. Again, I won't say specifically in Ontario, because governments at all levels and political stripes do this as well. They say that governments put things in place where you tax and regulate people so you can turn around and bring in programs and somehow give tax credits so you can help those companies you've taxed and regulated out of existence. That's the way it turns out. They look at it and say, "My goodness, essentially that's what has happened." I try to be non-political by saying that regulation and taxation is by governments at all levels.

Specifically on this bill, though, looking at it from the standpoint of how many people you see will be investing in it and taking a look at where we're going with this, do you see it as being very difficult? You may have been here during the presentation when the Canadian Auto Workers

and some people from the labour movement said they don't see too many people investing in either of these particular ventures. What's your assessment? If the bill stands as it is, do you see many people jumping into this particular aspect?

Mr Eastman: Again, I think it's important to really look at the two different portions of the bill very differently. I believe there will be opportunities for specific companies where an employee buyout kind of approach is appropriate. How often that will come along, I'm not sure. I think it will be primarily in a salvage operation kind of concept. There will be some of those. The risk will be that they will tend to be companies in industries that are facing pressures for other reasons and this kind of thing will not be sufficient to bring them out of it. I think that's one end of things. There are a number of limited opportunities, but the ones that do exist may be of significance.

I think there are two major parts to it: How much incentive is there for the investor and how many investment opportunities are there for the funds? If I just look at the numbers, one of the things that annoyed me was, boy, this looked attractive. When you worked the numbers out that was, superficially anyway, an attractive place to put funds. To the extent that it is successful—I'm not sure how many appropriate investment opportunities there are that could make use of that without absorbing far too much of the funds in the administration process.

The Chair: Before we go on to Mr Kwinter, there were just a few items in the brief that Mr Evans from the Ministry of Revenue wanted to comment on—the headings.

Mr Evans: In your brief you have a specific reference to "Labour-Sponsored Investment Fund Corporations," and following that heading there are a number of items I would recognize as being appropriate to the employee ownership side rather than to the investment side. Was there some other part of your presentation that might have got missed in the construction that relate to the investment side? These do not seem to be investment fund comments under the investment fund heading.

Mr Eastman: Could you be more specific, please?

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Mr Evans: Yes. In particular, your references to voting in the last paragraph there are an amendment under the employee-ownership aspect of the bill, which is your following heading—the agreement of employees before the investment can be made. I believe that is specifically employee ownership.

Mr Eastman: Are you dealing with our brief or with the previous one?

Mr Evans: With your brief, I believe, that whole centre section there. Under the fund situation as presently described by the bill, the employees do not gain control of corporations. They invest in a fund that takes minority positions in corporations. The points you raise are points that I think properly relate to the employee-ownership segment, which is the point that follows. So I wondered if there were other points you had intended to make there appropriately referring to the investment fund.

Mr Eastman: I'm still trying to wrestle with the comments you're making and trying to sort them out. Can I spend a couple of minutes with you on that for clarification, or we can share the same piece of paper? I think that would be helpful.

Mr Evans: Certainly.

The Chair: Okay, we'll go on to Mr Kwinter then.

Mr Kwinter: Mr Eastman, we've listened to several groups all day today and we've been getting some very strong signals. A survey of members of the Canadian Federation of Independent Business showed that their number one concern is taxation and overregulation by government. Lack of access to capital was down at the bottom of the list, somewhere around 23% or 24%. We had other groups coming in saying there was a vast pool of investment capital available to business in Canada. It does not seem to be the problem; the problem is having the right vehicle to access it.

We had the Ontario Federation of Labour saying it's not supportive of this, even though it's supposed to be a labour-driven fund. They don't see this as the vehicle they had envisioned. We have the Canadian Auto Workers saying that not only are they not supportive of it, but that they will be encouraging their members not to participate, that they see this is not going to do anybody any good.

What does the chamber feel on that kind of level? Other than your comments saying there was no consultation and everything else, what is the feeling of the chamber? Does it feel this is something that is going to help the economy of Ontario? Is it something it would support on that broad level, as opposed to its concerns about the consultation and also about the union orientation? Talking for the chamber, is this something you would support with some modification, major modification? Or is this something you see a need for?

Mr Eastman: I think our preference would be to go back to the problem-definition stage and try to understand what problems we are trying to solve and how we might best address those. What we see here has been driven by federal legislation. I understand that, but again it appears to add a layer of complexity to a world that is already far too complex.

I keep a file of quotations. One I particularly enjoy is from Einstein and says that everything should be kept as simple as possible but no simpler. I think we can move a lot farther in that direction of "as simple as possible but no simpler" than what I see in Bill 150.

Mr Phillips: I share with I guess all three parties in complimenting you on your earlier brief; it was a thoughtful document and I appreciate it.

I've found these hearings quite informative, because originally this bill was just going to slide right through and it was only that we thought it might be worth a couple of days of hearings to see if there were any little hitches in it. As my colleague just said, we're finding very few people who think it's going to have any merit, particularly the venture capital portion. The union movement is solidly against it, the business community doesn't seem to be particularly enthused about it, and I gather from listening and

reading your document that you've got some significant reservations about the venture capital part of this.

Mr Eastman: Particular reservations on that end of it, yes.

Mr Phillips: On the employee ownership side, there seems to be much broader support for that concept, I think, among the groups we've heard from. I don't necessarily mean the chamber, but among groups. Have you any recommendations on how it can be enhanced to further the document your group presented today, how that portion of the legislation could advance the agenda the chamber has put forward?

Mr Eastman: Basically, we would like the opportunity to divide this up and look at the worker ownership aspect separately and then consider how that might be facilitated, relying less heavily on taxpayers' funds and more on what are the current barriers to that and how much of that can we help solve by clearing away, simplifying the process through all the legal roadblocks.

Mr Phillips: Has the chamber seen the latest estimate of the annual cost of this?

Mr Eastman: No, we have not.

Mr Phillips: I think it's now up to \$250 million a year for the total, for the venture capital part of taxpayer—

The Chair: Excuse me, Mr Phillips. We had a correction earlier.

Mr Phillips: Did you?

The Chair: Maybe Mr Evans can repeat it. At that time I think you'd just stepped out for a minute.

Mr Evans: It was \$250 million a year at maturity. In the first year, 1991, the actual tax credits were \$8.1 million.

Mr Phillips: I had assumed we always look at maturity.

The Chair: Sorry I interrupted you. But your time has run out too, Mr Phillips. We'll have to go to Mr Johnson.

Mr Johnson: First of all, I want to say thank you for coming, but I found that your presentation today is rife with error; if not that, there are certainly misunderstandings or misconceptions.

You start off on one page talking about labour-sponsored investment fund corporations and in your second paragraph you talk about employee-owned companies. There's no relationship there, and it makes it somewhat difficult to follow.

You also say there should have been more imagination and it should have been possible to work within the RRSP concept. At this point in time it isn't said that it will happen or it won't happen.

But what I found most offensive is on the next page when you talk about employee ownership labour-sponsored venture capital corporations and say this will increase the financial resources and financial clout of unions. My goodness, sir, you're starting to sound like Mr Carr from the Progressive Conservative Party. We don't want to propagate that kind of misinformation, because that absolutely is not correct, and I want to make sure—that's why I'm saying it now—that it's on Hansard. This is not correct. There is no intention in this legislation to increase the financial resources and financial clout of unions. Labour-sponsored

investment funds are opportunities for people—they don't have to belong to a union—to make investments that are sponsored by labour organizations in the province of Ontario. Certainly anyone in the province can do that. Anyone can invest, anyone can get the tax breaks we're talking about here if he or she wants to invest, but in no way is this going to increase the financial resources or the financial clout of unions.

With regard to employee ownership labour-sponsored venture capital corporations, these people don't have to be unionized at all if they want to invest in their business or invest in their employer's business and help maintain their jobs or their future by some kind of sound investment in the business they are already working in.

I think we've got to make sure these facts are clear. That's why I wanted to raise that.

1730

Mr Eastman: May I respond? I think one of the problems here is, yes, we do understand, as proposed, they are investments that are available to everybody, but they're only available for them to take place through the union movement. If there was a need, then it was our opinion that that vehicle should have been available on a broader basis rather than specifically through the union movement.

It was on that basis—not of how the funds flow, but the potential effective control of them—that raised the concern with us that we felt we had a responsibility to convey to you.

Mr Johnson: I am curious to know, if you could elaborate just a little more, how you think this is going to increase the financial resources and even more so the financial clout of unions when unions aren't going to benefit directly from this.

Mr Eastman: Because the funds are administered by the union.

Mr Wiseman: How's that going to do anything?

Mr Phillips: He who has the authority to make an investment often has a little bit of clout. That's common sense.

The Chair: Can I just ask for some clarification from the ministry?

Mr Evans: The investment funds are managed by the sponsor and invested accordingly. It is not the intention that the sponsoring organizations exact any sort of levy on the fund or any contribution from the fund as a consequence of their sponsorship.

Mr Phillips: The sponsoring organization is the union.

Mr Evans: Yes.

Mr Phillips: Isn't that obvious to everybody?

Interjections.

Mr Owens: Yes, but the insinuation that's coming across is that the levers of power are going to be thrust in the workers' hands.

Mr Johnson: Did you say "lovers"?

Mr Carr: I thought he said "lovers" too.

Mr Owens: Notwithstanding the mispronunciation, in terms of the unions controlling the funds, I don't see the

direct relationship in what you seem to fear as some group of labour types gaining the upper hand.

Mr Eastman: I guess I'm more concerned about the extent to which all of us have limited capacity. Asking the union movement to become professional fund managers I think diverts it from other activities. In terms of the funds available, there is a question of how are the decisions going to be made on how those will be invested. There are some checks in place to ensure that there are not specific abuses, and I accept that.

Mr Owens: Look at the professionals, like Olympia and York, that follow traditional models and you're looking at the kind of catastrophic results that take place. Do you find that problematic? They're certainly not a labour-sponsored group. They're going bankrupt.

Concentration of power: Banks, financial institutions are looking at the amount of their exposure on this issue and looking at it with some concern. They're certainly not—

The Chair: Mr Owens, I'm going to have to cut you off. I know you're not going to get the answer you want back right away.

I'd like to thank you for coming before this committee with your input. Mr Evans here from the ministry can meet you out in the hall just to discuss what he was trying to get across to you on page 3 there.

Mr Owens: Good.

Mr Phillips: Just for clarification, I think Mr Owens indicated two weeks ago that he was bringing the amendment in that I think may answer the chamber's concern anyway on who will be eligible to manage the venture funds. It's going to be substantially broadened. You may have anticipated the chamber's concerns, and we'll be bringing that amendment in anyway.

Mr Owens: Not with respect to who controls the levers of power, though.

Mr Phillips: No, the Saskatchewan model I've got here. But you're bringing in the Saskatchewan definition.

Mr Owens: I didn't commit to the Saskatchewan definition. If you look at the Hansard, I wasn't able to commit on a particular model.

Mr Phillips: It should be in the Hansard.

The Chair: Okay, thank you.

The next group to come forward is the United Steelworkers of America and Mr Robin MacKnight.

Mr Sutherland: Just before we begin with their presentation, I was wondering if we could do one procedural thing, and that is get a clarification as to what we'll be doing next week and next Thursday. I believe there was some request that after all the presentations we could have staff come back in for some more questions, so some sense of maybe doing that next Thursday morning and then possibly in the afternoon looking at the specific amendments.

Mr Phillips: When will we see the amendments, by the way?

Mr Sutherland: They've already been presented, have they not?

Mr Phillips: No, the one that Mr Owens was referring to.

Mr Sutherland: I don't know about that one.

Mr Owens: I indicated at the last committee meeting that the wording is still being worked on. There are some difficulties to overcome, but as soon as the amendment is ready it will be provided to you, Mr Phillips, and your other colleagues in opposition.

To your point with respect to the Saskatchewan process, I point you to page F42 of the Hansard of May 14 of this year. It clearly indicates that I made no such commitment with respect to the Saskatchewan amendments.

The Chair: Okay, Mr Owens, would there be any amendments before Thursday?

Mr Owens: We're certainly hoping so. As I say, there are some difficulties that were in the process.

The Chair: But any that are going to be brought forward on Thursday, so that as soon as possible the members of the committee—

Mr Owens: Chair, if we have amendments, you will certainly see them and our colleagues in opposition will certainly have them. It's our intention to do that as expeditiously as possible.

The Chair: I think it would be very important.

Mr Phillips: Does that mean before next Thursday?

The Chair: This is what I'm asking Mr Owens for if at all possible, so that when staff are here, members of the committee can ask questions on the amendments.

Mr Owens: "If at all possible" is the preface I would use. If it's possible to have them here, we will have them here.

Mr Phillips: I'm sorry to take the time from the Steelworkers; maybe we can run a little bit late. But the other area that our caucus is quite interested in is the budget and just having an opportunity before we break in July or August, whenever we break, to review some of the questions that we have about the budget. If the amendments are not going to be ready for next Thursday, it may be possible—

Mr Sutherland: Are you looking at the Treasurer or the treasury staff?

Mr Phillips: Ideally, the Treasurer. You may want to talk to him. We've got three or four questions we'd like to—

Mr Sutherland: Okay, we'll do some follow-up and see whether he's willing to appear, and if not, maybe add some treasury staff then. Okay?

Mr Phillips: Great.

Mr Owens: Just a quick comment. Because of the newness of the issue here in Ontario, we want to make sure the correct wording and the best language available are coming out. So as I say, as soon as we can get the amendments here we'll certainly be pleased to provide them to you. Thank you, Chair.

The Chair: Okay, Mr Phillips, you're satisfied?

Mr Phillips: Yes, I'm happy.

1740

UNITED STEELWORKERS OF AMERICA

The Chair: Mr MacKnight, welcome to the standing committee on finance and economic affairs on Bill 150. We have a half-hour. We didn't use up any of your time there. Mr Phillips said he's going to sit until 10 after 6, so no problem. If you want to begin, leave some time at the end of your presentation for questions from the committee.

Mr Robin MacKnight: First of all, let me apologize. I have a terrible cold, and if I break down into a coughing fit it's because I've been trying to nurse this for the last several days.

My name is Robin MacKnight. I'm a partner with the law firm of Gowling, Strathy and Henderson and I've been asked to appear before this committee this evening to represent certain of the interests of the United Steelworkers of America.

I have handed to the clerk of the committee a copy of a letter which Leo Gerard, the national director of the Steelworkers, sent to the Chair of this committee this morning—I understand the original either has been delivered to you or is on its way—to express the disappointment of the Steelworkers that they were not consulted earlier in this process. In fact, we did not get the invitation to attend tonight until Tuesday, and unfortunately this week, starting yesterday and going until tomorrow, is the national policy conference of the Steelworkers and all the senior members of the union are down in Hamilton attending that conference.

Mr Phillips: I would be personally happy to invite the Steelworkers to come participate next week, if that would be helpful. I agree with Mr Gerard's letter. I think probably no one in the country has been more involved in this than Mr Gerard.

The Chair: I've just been handed the letter now from the clerk, so I haven't had a chance to read it.

Mr MacKnight: Thank you, Mr Phillips. I'm sure the Steelworkers would be happy to comply with your request, if invited again. I understand I'm the last person making a presentation tonight. I guess it's sort of appropriate that the Steelworkers make the last presentation since they were one of the first people who were not only interested in but actively promoting the concept of worker ownership about a year ago and some kind of government assistance to promote worker ownership in the Algoma Steel restructuring and worker buyout.

What I've also handed out to the clerk is a copy of the submission which the Steelworkers presented to the government back in September during the early consultative phases of this legislation. That submission was based upon the green paper draft legislation which pre-dated the introduction of Bill 150. I'm happy to report that a number of the issues raised in that submission have been addressed in ongoing consultations between the Steelworkers and various ministries in the government. Unfortunately there are still a few significant issues which have not been addressed or which do not seem to have been resolved in a practicable fashion, and I would like to address four of those this evening.

The four key points are: first, the issue of ministerial discretion; second, the operation of the advisory board; third, the type of disclosure and investor protection required for employee ownership companies under part II of the bill; and fourth, labour-sponsored investment funds under part III of the bill, and in particular the mechanics. I note that in the gallery we have representatives of a number of the ministries, and I'm sure my comments may seem repetitious to certain of them. However, we'll try them one more time.

Dealing first with the issue of ministerial discretion, the committee is undoubtedly aware that many industries in Ontario are export-oriented, and because they are export-oriented they are very concerned about the reactions of their foreign competitors. In particular in the United States many foreign competitors of Canadian industries and Ontario industries are quick to bring trade action over perceived subsidies and government interventions.

The concern the Steelworkers have is that if Bill 150 is passed in its current incarnation there is a perception that there is too much discretion vested in the hands of the minister, and there is a considerable perception of government intervention in the marketplace. In particular, there is concern that companies that try to adopt Bill 150 and use the tax credits to promote worker ownership will be exposed to trade retaliation. At least, in the context of certain transactions the Steelworkers are interested in, we have consulted trade lawyers in the US who have commented that the ministerial discretion provisions of Bill 150 could give rise to countervail action in the United States. That is a serious concern for any export industry in this province.

As is pointed out in the submission you have been given, there are a number of specific areas of Bill 150 that give the minister discretion. I understand from reading Hansard of a couple of weeks ago, the comments made by some of the staff members, that the ultimate approval process for tax credits under Bill 150 will be a cabinet order in council. When we raised the concept of a cabinet order in council being the final decision generating a tax credit, we almost had to peel our trade lawyers in Washington off the ceiling. In their view, there could not be anything clearer than a cabinet order in council as an indication that there is some kind of government intervention in the marketplace here, and that means countervails, and that means a lot of the companies who probably need worker ownership and need the assistance of this bill will not be able to access it simply because their foreign competition will take them to whatever trade tribunals are appropriate in the foreign countries. That is a serious problem with this bill, and I can't overemphasize that point.

Turning to the second point, and this one may be related to the first one, the operation of the advisory board: The view of the Steelworkers is that the advisory board should have its scope of activities limited either by the act—preferably by the act—or at least by the regulations. One of the main concerns with the operation of the advisory board is that it should not have the power to second-guess the people who are actually putting their money on the line. The advisory board should act as a compliance board. It should act to ensure that the spirit and intent of the legislation is

satisfied—just in passing, I note that there is no definition of what the spirit and intent of this legislation is in the bill; that's a point that's in the submission—but the advisory board should not go beyond that. It should not have the right or the power to put its decision on whether a business plan is feasible ahead of what the investors think is feasible.

We suggest that the regulations make it clear that any business plan put forward by an employee group should be presumed to be commercially viable and that the onus on the advisory board should be to show that the assumptions underlying the business plan are not supportable, taken as a whole, and that unless they can show that those assumptions are just clearly unsupportable and clearly uneconomic, the employee proposal should be allowed to proceed.

I notice there was some commentary among members of the committee in Hansard a couple of weeks ago about why the government should have the right to approve certain businesses which may ultimately fail, and yet they could prevent investments in other businesses where the advisory board feels for its own purposes that the conditions in the act are not satisfied.

Turning to the third issue, the investor protection code, which is something that we understand is relatively controversial—that may be an understatement—the basic concern of the Steelworkers, and I suspect this has been echoed by a number of other people who have made submissions to this committee, is please don't make the system so cumbersome that it can't be made to work; please don't impose such a high level of disclosure on small companies that they can't possibly afford the professional fees to go through the process to get the employee approval.

I must say that a number of us read with some dismay the comments in Hansard a couple of weeks ago which explained the concept of a disclosure document that would have to be sent to the Ontario Securities Commission, reviewed by the Ontario Securities Commission for a full, true and plain disclosure, and ultimately receipted by the Ontario Securities Commission. To a number of us, that sure sounded like prospectus-level disclosure. Let me tell you that when you're looking at some of the small operating companies the Steelworkers have interests in or in which they're considering implementing this legislation to promote employee buyouts, if you're dealing with a small company that has 100 or 150 employees and maybe \$5 million or \$10 million in annual revenues, you just can't afford \$100,000 in professional fees to go through a prospectus clearance process with the Ontario Securities Commission. The company just can't afford the cost of that. So please, when you're going through the regulations, don't impose a standard that is too high.

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Also bear in mind that many times, where the investors are the employees of a business, the employees are not ultimately, at the end of the day, making an investment decision, they're not dipping into their RRSP to say, "Where should I invest for my retirement?" Their concern is a lot more immediate than that. Their concern is, "If I don't make this investment, will I have a place to go to work tomorrow?"

Bear in mind that in many cases—hopefully not in all, because this legislation is, after all, designed to support active and profitable companies; it is not designed just strictly for bail-outs and turnarounds. Let me emphasize that the Steelworkers support that concept; they want this to work for all companies, not just turnarounds and bail-outs. But in many cases—and certainly at the implementation stage that we've seen over the last year and in this recessionary economy—where employees will participate in ownership of their employer, they will be asked to make employment decisions, not investment decisions. The disclosure document and the regulatory regime that the employees have to go through to get approval for their business plan should reflect that very basic economic fact. We're not dealing with Bells and Northern Telecoms and Norandas and IBMs here; we're dealing with small and in many cases owner-manager companies, some of them profitable, some of them borderline. They're very keen not to incur unnecessary expenses.

Just looking at the OSC process in the last 12 months, the committee may be aware of the two large transactions we're using Bill 150 for. In the Spruce Falls case they did manage to get an exemption order from the Ontario Securities Commission to approve that transaction. Unfortunately that relief was not available to the Algoma transaction, and you may be aware of two regulations under the Securities Act that had to be approved by cabinet in order to allow the Algoma transaction to proceed. There aren't too many small businesses that can afford the luxury or have the political expertise to go through a process of getting a special regulation under the Securities Act in order to allow their employee buyout to proceed.

Another point on the formal disclosure documents: In one of the proposed buyouts that is referred to in Mr Gerard's letter the employees don't speak English, and any document that is meaningful or legal would have to be sent to those employees and would have to be translated into another language. In this particular case it would have to be Portuguese. You can't mandate that, or that's going to be very difficult to mandate, in any regulation.

Instead of imposing a standard of disclosure that has to fit across the board, maybe consideration should be given to having the advisory board determine what level of disclosure is required and put that in as one of the conditions of its approval, instead of sending it to the securities commission. In the Algoma transaction there was a constant flow of information to all members of the union and to all employees in Sault Ste Marie. There were weekly newsletters, there was a phone-in show and there was a weekly talk show on television. There was a constant flow of bite-sized, meaningful and manageable information made available to the employees. It was much more meaningful and understandable than the 130-page information circular they ultimately had to approve in April. That kind of process of ensuring that meaningful information is given to employees to let them make a reasonable, informed investment decision could be made a condition of the approval process rather than building it into some regulations that don't offer much flexibility.

Finally, turning to labour-sponsored investment funds, one of the concerns the Steelworkers have expressed about labour-sponsored investment funds is who can sell them. Labour-sponsored investment funds could be a good source of venture capital for small businesses, and if the object is to get broad-based worker participation you've got to get access to the workers, you've got to get out in the place where the workers are. They're not at King and Bay. And if you try to get investment dealers to sell labour-sponsored investment funds you will find that they will hit a wall of resistance for the simple reason that the potential investors, people in the workplace, the blue-collar people who make industry work, are not used to dealing with Bay Streeters. They have a natural scepticism for Bay Streeters.

If the requirement is that only registered investment dealers are authorized to sell it, you won't find many of them in Hearst, Timiskaming, Field, Nipissing or Nipigon, but you will find people in the workforce who are creditable and credible and who are believable by the workers. Those are the people we have to access. Those are the people who should be empowered to sell securities and labour-sponsored investment funds.

We understand that in Quebec one of the key factors leading to the success of the solidarity fund is the people who can actually sell units. In Quebec, apparently, people on the shop floor—members of the union, shop stewards and so on—are authorized to sell LSIFs or sell units in the solidarity fund.

The Chair: How about you take 15 seconds and get the cough candy in there and take a sip so you don't lose your voice by the end of the presentation.

Mr MacKnight: Thank you. I'm not entirely certain who the best person is to sell LSIFs. I suggest it's still open and something that should be given consideration, but please don't restrict it to investment dealers, don't restrict it to the people at King and Bay. You won't find a Wood Gundy office or a Richardson Greenshields office in a lot of the small towns, and if you want to access capital from those small towns and if you want to get people in those towns investing in local businesses, you have to get at that capital, you have to get at those people. So please give some consideration to who in the local community should be allowed to sell those. Those are my formal remarks.

The Chair: Thank you. We'll start off with Mr Carr.

Mr Carr: I'll try and be very brief, recognizing your problem there with coughing.

Mr MacKnight: My infirmity.

Mr Carr: I'm surprised by Mr Gerard's letter. We used to have a bit of a standing joke around here that we saw more of him here for a while than we did cabinet ministers. I notice on page 1 he says, "This has left us surprised and angry." I don't know if he underlined that. Are you really saying that, through all those meetings he had with the Premier during this period of time and with the Deputy Minister of Industry, Trade and Technology, somewhere along the line somebody didn't say to him, "As a result of this Algoma situation we're planning to do such-and-such"? Is he really saying in here that he didn't have any consultation whatsoever and that this piece of

legislation came in, knowing he spent literally—I saw him, because we had a bit of a joke with Mr Sorbara, who was a Labour minister during that period of time. He's saying there was no discussion. What type of involvement has he had with this piece of legislation?

Mr MacKnight: Let me first of all address the comment. I just have a faxed copy, which is what you have a photocopy of, so I don't know who made the underlining. I think the comment is the fact that the Steelworkers did not find out until Tuesday about hearings and were not invited to hearings today until Tuesday. I think that's the cause of the disappointment.

Certainly the Steelworkers have been active in consulting with the various ministries in the government on Bill 150. That process started a year ago and continued through last summer and last fall and has continued through this spring. If you talk to members of the staff they will say they've probably seen representatives of the Steelworkers almost as often as you've seen Mr Gerard in this area.

So please don't take it that Mr Gerard is disappointed that the Steelworkers have not had the opportunity to be involved in the process. I think it is directed to this particular hearing.

Mr Carr: Someone was saying the reason you didn't call him in is that he's the one who wrote it and it was his piece of legislation. That's why we were laughing.

Mr MacKnight: I don't think Mr Gerard would like to take the credit or the blame for that.

1800

Mr Carr: I understand. The second thing is regarding the situation with the US. You talked about anything that is signed by the cabinet being a trade irritant. I can't believe this government hasn't looked at it, but it's a government that has been opposed to the free trade agreement. One can say that a provincial government that can't stop a federal free trade agreement can, for want of a better word, stir up trouble with pieces of legislation.

Looking at it and knowing that the US will see this as a problem, do you think this particular piece of legislation was introduced as a means of creating some trade irritants between Canada and the US?

Mr MacKnight: I wouldn't like to speculate on that, but I would hope that was not the case. I accept the rationale expressed by the Treasurer last summer when he introduced this legislation. I think this kind of legislation is probably good for this economy. That's my own personal view, that's not any official view.

Mr Carr: Thank you.

Mr Phillips: These hearings are proving far more interesting than we thought. It was myself, I think, who wanted to have them and I thought it would be fairly routine, but so far we're running into an awful lot of major comments. Your comments really struck a responsive chord. We've been talking about the order in council, the implication being that the government is backing it. It's not just the free trade agreement, there's probably some GATT stuff involved in this.

You expressed concern about the advisory council. I'd like you to expand a little bit on that. My concern about the advisory council having the role of reviewing and commenting on and approving business plans is that there's an implication that somehow or other the government has approved the business plans, certified that they are viable, put its stamp of approval on them, and I think in the final analysis reasonable workers would say, if the thing goes sour: "Wait a minute. Six or seven years ago the government signed this thing and said it was okay. What's happened?"

That's my worry about the advisory council. It takes it out of the hands of the workplace partners who have the fundamental responsibility for it and just kind of shovels it all over to an advisory council. That's my worry about it. What's the Steelworkers' worry about the advisory council?

Mr MacKnight: I think one of the concerns—and they're probably better expressed in the submission you have there—is that there is the potential for the advisory board to look at an investment and say, "We don't think this works." That's an interesting comment for a third party to make, considering it has no economic interest in it and probably has no understanding of either the industry or the business.

One of the concerns is that in looking at a particular investment, the advisory board will ask for quite detailed financial information. Unfortunately, the only financial information that will be available will be historical information. One of the key points of worker ownership is that when the workers take control of the company, one hopes they can institute new forms of workplace participation, that they can introduce new forms of production, enhance productivity, reduce expenses and give new life to the company and point it in a new direction so that this historical information is interesting but largely irrelevant.

What the advisory board is forced to look at are the projections. They will be looking at information going forward and in some cases, it is going to be a hope and prayer; in some cases it's going to be well thought out, and in some cases it may even be possible to document some of it based on comparisons: other industries, other companies, other countries. I'm sure that's something MITT is addressing in its guidelines, but our concern is that the requirement that the advisory board focus on future activity rather than past activity be formally built into the regulations; and further that the advisory board, in looking at those projections and that future activity, not have the right to substitute its view of future events for the view of the people who are putting their money on the line.

After all, the people putting their money on the line are involved in the business. They know the business. They know the industry. They know the competitive factors. They know which products are profitable, which are not. They know which strategies work for their companies and which don't. Frankly, the advisory board is detached from that by its very nature; it is detached from any particular industry.

Mr Owens: I was interested in your comments around the investor protection code. I found the issue with respect to the newsletters and the bite-sized information to be an interesting one.

However, my question is, as counsel, what test do you use to determine where you would draw the line between what you call "cumbersome," as you describe it, and protection? My understanding of the proposals we're making through the OSC is that it's simply a well-thought-out disclosure statement, an explicit health warning. I'm not quite sure how that becomes cumbersome.

Mr MacKnight: Let me use the Spruce Falls prospectus as an example. I like to think I'm fairly adept at reading prospectuses and relatively knowledgeable about how this program works. Since I'm a lawyer, I can usually translate legalese into something that at least I can understand, and I had to read that prospectus four times before I figured it out.

A comment made by one representative of the Steelworkers when he saw that prospectus was, "You're asking me to prepare this prospectus and deliver it to somebody on the shop floor at the same time that I'm going to the Ministry of Labour and the Ontario Training and Adjustment Board to try to get funding to improve the literacy of that worker on the shop floor."

You're asking them to create a document that is never going to be read and is not going to be understandable. They're going to look at this document and say, "What does this mean?" They're going to turn around and they're going to look to somebody they deal with and believe in and who they find credible to explain what it means. Those people are going to be their peers in the workforce and whoever the promoter of the employee group is going to be.

Those people, because they're in the workforce, because they're in the community and they're trying to convince people to participate in this, are going to have a relatively significant vested interest in ensuring that their friends, neighbours and coworkers don't come back and say, "You sold me a bill of goods." They're going to try to break down that complicated prospectus and that indigestible lump of information into pieces they can explain to people in the workforce and say, "You know that reference in that document to such-and-such, this is what it means and this is how it applies." That's really what you have to get across.

You want people to make an informed and reasonable decision, but when you ask them to make that kind of a decision, you've got to give them some information they can deal with. There's no point in going through the exercise of hiring lawyers and accountants to generate a huge, beautifully worded in legalese prospectus that nobody's going to read. That doesn't accomplish the goal of the legislation.

The Chair: There are two minutes.

Mr Johnson: Two minutes may just be enough. I want to say thank you very much for coming today, Mr MacKnight, and sharing your views with us.

Mr MacKnight: It's my pleasure.

Mr Johnson: I also want to apologize—and I guess I'm going to apologize certainly on behalf of the government—for the oversight with regard to notification of the United Steelworkers of America and their participation in this process. Certainly I think it's clear that the government has worked closely with the Steelworkers, especially with regard to the Algoma situation, and I think there's no doubt

we have a good rapport and certainly a good understanding and relationship.

I think it's very unfortunate that probably the most important participant in this forum, in this venue—because of the experiences that you now have—had not been invited formally to these hearings. I think that's very unfortunate. I hope that you'll take that back to Leo Gerard and let him know we are aware of that oversight.

Mr MacKnight: I'll pass that on to Mr Gerard.

The Chair: Just some direction from the committee here, and maybe you, Mr MacKnight. Mr Phillips had brought up that [inaudible] you feel that you were able to bring across enough today, or would you like to come back another time? I'm looking at the steering committee of this committee also.

Mr Phillips: I'd welcome the chance to talk to Mr Gerard. I think he's the principal in this. Presumably we'll have some time next week.

Mr Sutherland: Sure. If any of the other officials from the Steelworkers would be available next Thursday morning, I guess we start our hearings again at 10 o'clock next Thursday morning. If not, I suppose probably any time in the morning if someone's available I would be more than happy to have them come back.

Mr MacKnight: I'll be speaking with people at the Steelworkers over the next 24 hours, so I'll raise that with them and invite them to contact the clerk of the committee and try to arrange something.

The Chair: That would be fine.

Mr Phillips: I have another question on some of the comments, but I can raise them with them when someone from the Steelworkers is here.

Mr Wiseman: Could I perhaps suggest that the clerk contact Leo Gerard. As well, if you could just inform him that we're going to—

The Chair: The clerk is going to be contacting him.

Mr Wiseman: —his formal presentation with the appropriate contact.

The Chair: I'd like to thank you for appearing before the committee. I guess my apologies too, as the Chair here, that overlooked, oversighted—I know Spruce Falls was supposed to be here. Maybe that was one example we were taking a look at, and they did cancel out. My apologies go out to Mr Gerard and the Steelworkers.

The committee adjourned at 1812.

ERRATUM

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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- *Ward, Brad (Brantford ND)
- Ward, Margery (Don Mills ND)
- *Wiseman, Jim (Durham West/-Ouest ND)

Substitutions / Membres remplaçants:

- *Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Ms Ward
- *Owens, Stephen (Scarborough Centre ND) for Mr Christopherson

*In attendance / présents

Also taking part / Autres participants et participantes:

Evans, Jim, executive director, revenue services and operations division, Ministry of Revenue

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Official Report of Debates (Hansard)

Thursday 4 June 1992

Journal des débats (Hansard)

Jeudi 4 juin 1992

Standing committee on finance and economic affairs

Labour Sponsored Venture
Capital Corporations Act, 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur les corporations
à capital de risque de travailleurs



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 4 June 1992

The committee met at 1014 in committee room 1.

LABOUR SPONSORED VENTURE CAPITAL CORPORATIONS ACT, 1992

LOI DE 1992 SUR LES CORPORATIONS À CAPITAL DE RISQUE DE TRAVAILLEURS

Consideration of Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments / Loi prévoyant la création et l'inscription de corporations à capital de risque de travailleurs aux fins d'investissement dans des entreprises ontariennes admissibles et apportant des modifications corrélatives.

The Chair (Mr Ron Hansen): The standing committee on finance and economic affairs will be looking at Bill 150, an Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments.

Last Thursday we heard from witnesses before this committee and our research officer has before you a copy of a summary of recommendations on Bill 150.

Also, Mr Gerard of the United Steelworkers of America sent a letter to the clerk here stating that the brief that was put forward by their lawyer was sufficient and that he felt it wasn't necessary to appear before this committee this morning.

Also in front of you are three amendments from the Liberals. If you take a look at the third page, it says, "government motion." Would you cross out "government motion" at the top, because this is a recommendation from the Liberal Party. It was just a typing error.

Also in front of you, marked "no. 2" with Bill 150, Labour Sponsored Venture Capital Corporations Act, government motions—there are a few more motions in here, so perhaps you can disregard number one on there and refer to number two for any amendments to the bill.

There was a lot of confusion on some of the recommendations that came from the presenters last week, and to get some clarification it was decided by the committee to have a question period by the three parties with ministry staff. It looks like we will have approximately 35 minutes for each party. What we can do is start off with the Conservatives, go to the Liberals and then to the government body. If you wind up using 20 minutes, I'll keep that 15 minutes to the end, or whatever the case may be, because sometimes you might run out of questions in the 35 minutes. Mr Kwinter, it looks like you're not going to run out.

Mr Kimble Sutherland (Oxford): When has an opposition party ever run out?

Mr Monte Kwinter (Wilson Heights): I have no idea what you're talking about. I don't understand the questions we're asking.

The Chair: There were questions of the different presenters, there were some questions on their presentations, that I believe there was clarification. We can start off with Mr Sterling. Could we have the ministry staff come up here from the ministries of Industry, Trade and Technology and Treasury and Economics? For the purposes of Hansard, would you identify yourself please?

Mr Bob Marrs: Bob Marrs from MITT.

Mr Norman W. Sterling (Carleton): Mr Chairman, this is the first time we have seen these amendments, correct?

The Chair: There are some revised amendments, I believe, at the end there.

Mr Sterling: At the end?

The Chair: Maybe, Mr Evans, you could fill us in on the additional ones?

Mr Sterling: How many amendments do we have here?

Mr Jim Evans: I believe last time there were 42. There are 48 now.

Mr Sterling: Is it your proposal to proceed by just asking questions about these particular amendments? This is the first time I've seen these amendments. Maybe I should have received them before, or I have received them in the mail but they were not brought to my attention. When did we first get these amendments?

The Chair: The original ones, on the number one copy, were a couple of weeks ago. These additional amendments just came out today.

Mr Sterling: How many additional amendments are there?

The Chair: Six amendments.

Mr Sterling: I am not prepared, quite frankly, to cross-examine—

The Chair: We're not going clause by clause on the amendments.

Mr Sterling: No, I realize that. I would prefer if the government people would just briefly go through the more significant amendments and then I would be able to ask some questions.

The Chair: That would be fine.

Mr Joe Lambert: I'm Joe Lambert. I'm with the Ministry of Revenue. I'll go over the amendments, relying on a summary of the amendments we've prepared as part of a package for use by the various ministry staff members.

The first major amendment has to do with amendments related to the formal vote of employees on proposed investment, as to whether they want to form an employee ownership labour-sponsored venture capital corporation to take

an ownership position in their employer's corporation. Section 4 is the basic section. There are a number of sections. There are over half a dozen sections that are being amended as a consequence of the basic policy-related amendment.

The proposed amendment is to provide for a formal vote by the eligible employees of the business on whether to register an employee ownership labour-sponsored venture capital corporation under part II of the bill and to make the proposed investment in the employer corporation. The vote will be conducted by the Ontario Labour Relations Board after the following have occurred:

First, there has to be a review of the proposed investment by the Employee Ownership Advisory Board. Second, there has to be a preparation and distribution to the eligible employees of disclosure documents setting out particulars of the proposed investment and the business plan, investment plan and human resources plan. Third, there has to be advice provided by an independent adviser on the proposed investment.

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Due to the proposed voting procedures, the formal certification of the employee group that represents the employees under the act will no longer be needed, and amendments are being proposed which will delete references in the bill to "employee group." That's the cause of about six or seven amendments. They're basically filtering through the bill to delete references to "employee group."

The basic amendment that precipitates these consequential technical administrative amendments is the change to the voting procedures, which is section 4, so I would refer you to section 4 in relation to the basic amendment.

Mr Sterling: I think we had raised an objection, first, with regard to who could vote and who couldn't vote. I would assume eligible employees would include every employee of the business?

Mr Lambert: Yes. Every employee who is eligible would be entitled to vote, according to the definition provided in the act as to what eligible is.

Mr Sterling: Does that exclude anybody?

Mr Lambert: They'd have to be permanent employees, basically.

Mr Sterling: Okay. It doesn't matter whether they're management, not management, etc?

Mr Lambert: No, it doesn't matter whether they're union members or not.

Mr Sterling: They're part of the union or not part of the union?

Mr Lambert: No, it doesn't.

Mr Sterling: Was it before that they had to be part of the union?

Mr Lambert: No, it wasn't a requirement before. The basic difference, the change we've made, is that previously the way section 4 was drafted, when the vote actually occurred, all that was required was that if a majority of the union members who turned up for the vote voted in favour of the buyout, then the buyout would proceed. The amendment now requires a simple majority of all those who are

present at the vote. The amendment was made to provide for a more democratic voting process.

Mr Sterling: I don't have all the questions at this point.

The Chair: Okay. Government side.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): We're not dealing strictly with amendments right now, are we?

Interjection.

Mr Johnson: Okay. Fair enough. I would like to just speak to the point Mr Kwinter raised in the House recently.

Mr Sterling: Could we just go through the bill or the amendments and ask questions about the particular sections?

The Chair: I understood there were just questions this morning on any parts of the bill and this afternoon it will be clause-by-clause.

Mr Sterling: It makes more sense to me to go through it.

Mr Sutherland: For the purposes of procedure, if there are specific questions on the amendments or the new amendments and we want to go through them first and then leave whatever time is left to comment on any of the issues that were raised last week, that's fine too.

Mr Kwinter: Mr Chairman, I'm sorry. As I say, it's been confusing to me as to what you are trying to do. If you're looking for general questions, I certainly have some I want to discuss, and I prefer to discuss them before the government responds. Then you can respond to my concern. When we started out I thought we were going through the various amendments and having questions on that.

The Chair: I understood that was Mr Sterling's request, to ask on some of these amendments, but I took it that it was open questions here this morning.

Mr Kwinter: The question I want to ask is the one I asked in the House, and I want to clarify that I have no particular problem with this bill. It came forward. It was supposedly a labour-backed initiative. We have three amendments, which indicates how little concern we have with it, and we were quite prepared to move these amendments and hopefully get support for them.

Where my concern is—quite frankly, I was stunned sitting here the other day when the Ontario Federation of Labour came in and the Canadian Auto Workers came in and announced that this bill is not going to have their support, that it does not address the intent of their initiative. I was the minister at the time when they came in to see me. They told me that they wanted to get the support of the government for a fund to address social matters, to be sponsored and backed by labour. I said I had no problem with that and, "If you can go out and get it organized, great," and they went ahead and did it.

Somewhere along the line—when I spoke to Mr Gindin and I said to him, "Where did this go wrong?" He said, "I don't know where it went wrong, but it has absolutely gone wrong." We have a bill that is supposed to be sponsored by labour and benefit labour and two of the largest constituencies in the labour group are saying, "Not only are we not going to support it, but we are going to actively encourage our members not to support it." If these two large groups, the Ontario Federation of Labour and the

CAW, are not supporting it—there has been some discussion that they are not supporting one aspect of it but they are supporting the other. I have read through their testimony to this committee and there is no question in my mind that, by and large, they are not going to be supporting either part, the establishment of the fund and the provisions for worker investment in their companies.

So my question is, if it's supposed to be a labour-sponsored initiative and labour is not supporting it, why bother? It's no secret that when I asked the question in the House and the Premier responded, he got the impression that for some reason or other I was against this bill in principle. I sent him a note saying I have absolutely no axe to grind with this bill. If it goes forward, if labour is supporting it and it does what it's supposed to do, good luck to them. It's my own personal view that this bill is not going to accomplish what it sets out to do, but that's fine. Let them do it and if they can get the support of workers and investors, good luck to them. I wish them well.

would like to see a bill that at least provides some protection for the people who are participating, but where I have a serious concern is how you can possibly expect this initiative to succeed when the people it's supposed to benefit and the people who are supposed to be sponsoring it are saying, "We don't see any benefits and we're not going to support it."

My question to the government members is, if that is the case—and this isn't an opinion on my part, I'm just reporting what happened here in committee. I've gone through the transcripts and there's no ambiguity. This is exactly what was said. If that is the case, it would be my suggestion that this bill should be withdrawn and reworked. Get labour in and ask them, "Okay, what's wrong with this bill and what can we do to get you to support it?" and then come back and present it again. To me it is absolutely absurd that we are imposing a bill on a group that is not going to support it.

What is the purpose? This isn't a make-work project for committees. This is supposed to answer a concern and to provide a vehicle whereby labour organizations can create a venture capital fund and make provisions for their employees to buy into companies with a certain amount of protection and stability. Certainly it is meant to address their concerns and needs. If they are not supportive, and not only not supportive but are saying, "We are actively going to discourage our members from participating," again I ask the question, why bother? Let's get something that is going to serve a purpose. That, Mr Chairman, is my question.

1030

Mr Johnson: In response to what Mr Kwinter said, first of all you're premising most of your comments on an assumption that—what was it you said? You said this is labour-backed and—

Mr Kwinter: "Labour-sponsored" is the term.

Mr Johnson: Okay, labour-sponsored, and that this a labour initiative. Well, let's get one thing straight. This is not a labour initiative; this is a government initiative, and it allows an opportunity for more than just those people who are labour or unionized to invest—

Mr Kwinter: On a point of order, Chair: The title of the bill says "An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations." It's not my interpretation.

Mr Stephen Owens (Scarborough Centre): It is more than just a person who carries a union card. A worker is a worker is a worker, whether he's unionized or not.

The Chair: Okay. Let Mr Johnson reply to it.

Mr Johnson: I understand what the title is. The title in itself could be open to interpretation, but what in fact the bill says is something else. We've had the CAW and the OFL come in here with some concerns certainly, but their concerns may be based on the fact that they expected that labour would have more involvement than in fact it has.

I'm saying that the LSIFs are opportunities for more than just labour to invest in business. It allows people outside of what you're suggesting to invest in business. Some of their concerns suggest that maybe this legislation doesn't go far enough, based on their assumptions of what this legislation should be. Obviously it's something different from what they think it should be and that's why they have some concerns, but the OFL supports the employee ownership labour-sponsored venture capital corporations; they have some concerns with the LSIF part. The United Steelworkers support the concepts of worker ownership in Bill 150. I think that was clear from their presentation.

For you to come before this committee and say that labour is opposed to this, holus-bolus, I think is wrong. That's not how I heard it. I certainly did hear some concerns. I can't refute that, but I think there is a lot of support from labour, and I think the focus of this bill isn't on labour. This is not a labour bill. This is a bill that allows for investment in small and medium-sized businesses in the province, and not investment from just labour but from people who have capital they would like to invest. To suggest that it's exclusive to labour and that it was a labour initiative is wrong.

Mr Kwinter: I think your whole statement is absurd. If that is the case, then I would suggest you change the title, because I can read as well as you can and the title says it is labour-sponsored.

Interjection.

Mr Kwinter: Just a second. It's a labour-sponsored fund. If two of the largest components in the labour movement are not going to support it, how do you expect an outsider to support it? To suggest that this isn't just a labour-sponsored bill—then I suggest to you that you change the title of it, because to any uninformed potential investor looking at this it says "labour-sponsored."

You can give me all the interpretations you want. To say to me it doesn't necessarily mean it's labour-sponsored even though it says it is labour-sponsored is absurd. It's either labour-sponsored, which it says in the title of the bill, or it isn't. It would seem to me that it's a non-starter if the bill says right in its title that it is labour-sponsored and labour says—not all of labour: "We are not going to sponsor it, and we're going to discourage our members from participating." I think you have a problem.

I want to reiterate that I have no axe to grind. If that hadn't happened, if they had come forward and said, "We think this is great, we are supportive of it and we would encourage all committee members to support it," I would have said, "Wonderful." But that isn't what they said. My concern is that this thing is going to happen from a legislative point of view, but it's not going to happen from a practical, economical point of view because it's not going to get the support of labour. If labour isn't supporting it, again I say, why bother?

Mr Johnson: I hear what Mr Kwinter says, and I just have to say I disagree with him. I know there were some presentations made by labour here, and I think it's clear they had some concerns, and indeed that's what you're suggesting. I don't think that all labour or all labour representatives are opposed to this. I think even those who are opposed see some merit in some aspects of this bill. To suggest that this be withdrawn in its entirety I think is inappropriate. I think it has a lot of merit and I think it has a lot of support within the labour movement, quite frankly.

Mr Sutherland: I don't believe we had the Canadian Federation of Labour in but certainly we had the working capital ventures fund, which I believe is the arm they've set up to deal with the issue; if I'm wrong please correct me. Certainly there's some sense that members of the Canadian Federation of Labour and their Ontario components have some support for this bill.

If I go back to the comments from the Steelworkers, I didn't think the Steelworkers expressed strong disapproval of it. They had some ideas where there should be some changes. Certainly the Steelworkers, also a significant union and labour group in this province, have expressed support for the initiative of labour-sponsored ventures and employee ownership. So there are elements that did express some concerns, that they weren't as supportive because, as Mr Johnson said, it didn't go as far as they want it to. But there are certainly some other significant elements out there that are supportive.

Mr Bernard Grandmaitre (Ottawa East): If I can follow up on my colleague's concern, if the two largest unions in this province are not supportive of this legislation, can we find out from the government who supports this type of legislation? How many groups or individuals were part of the creation of this bill?

The Chair: We'll go back to Mr Sutherland again.

Mr Sutherland: I just said some of the people who are supportive of it. The OFL as an overall umbrella group made its comments that it has some concerns because it doesn't deal with the question of democratizing the workplace. To suggest that all its affiliates will follow that is not necessarily the case, given the fact that the Steelworkers have said they're supportive of this type of initiative; they're an affiliate of the OFL as well. So there are some elements that are supportive and there are other elements that don't see how they can benefit from it.

Mr Sterling: Can I get on a different tack and ask some other questions here?

The Chair: Yes.

Mr Sterling: Do you want to stay on that?

Mr Johnson: I have just one point to make to follow up on some of the comments and arguments. In response to Mr Kwinter's concern, I want to say too that Mr Kwinter did say this was supposedly labour-backed. Those were his words.

I also wanted to say that there's also been some concern about only labour having been the sponsor of this. In the amendments I think you will see that worker cooperatives are also being viewed as a group that will have an opportunity to be a sponsor of this program under this bill. I just want to make that point so it isn't lost or so it isn't missed.

The Chair: We have one reply from Mr Sutherland.

Mr Sutherland: No, I want to ask a couple questions of staff members.

The Chair: Do you want Mr Sutherland to go first, or would you like to ask your question first, Mr Sterling?

Mr Sutherland: We've got lots of time. Go ahead.

Mr Sterling: Thanks, Mr Sutherland. I understand there would be a little embarrassment on the part of the government because of its close affiliation with the trade union movement, but I don't know whether that's totally irrelevant to whether this investment vehicle is offered.

At any rate, during some of the presentations, particularly by the Ontario Securities Commission, and a number of other submissions, I raised the point as to the backstop for the investor in terms of the employee ownership labour-sponsored venture capital corporations; in other words, where there's a buyout. If Spruce Falls doesn't work, if Algoma doesn't work, my concern was, when we have the government putting the stamp of approval on the investment—in fact, I think there has to be an order in council passed in order to indicate that approval—is there anything in the act that I'm missing which outlines the obligation of the government on failure?

Mr Marrs: I think the regulations or the disclosure document will have what is called in Securities Act parlance a health warning that will relate to the non-assumption of any liability in relationship to the securities offered.

1040

Mr Sterling: My greatest concern is the plight smaller communities in particular will be put into in terms of the plight of the worker, who will not only be encouraged to invest but will now be enticed to invest because we are giving him or her some financial incentives to invest. The OSC, if I recall correctly, said there should be a clear indication in the legislation what the obligation of the government was; in other words, there should be a clear indication in here that if the investment fails, the investor cannot come to the government and look for compensation.

Have you considered that kind of section? I think it's key to this whole legislation. Mr Wiseman, who was here at the last hearings when we discussed this, indicated he considered it caveat emptor. I want it emphasized totally as to what the obligations of the government are. I don't think whether my party was in or their party was in or any other party that they would let the thing fall completely apart; I think that's a political decision. But if we're dealing with investment decisions then I think the investor should know

what the legal obligations are. There is no legal obligation in here for the government to bail out if it goes down?

Mr Marrs: No, there's nothing specifically in the draft.

Mr Sterling: So no obligation, no section in here indicating that.

Mr Marrs: No. I think where that gets addressed, to the extent it gets addressed, will be in the disclosure document and the health warning.

Mr Sterling: Can I ask another question?

The Chair: Ms Farrell might be able to respond to your question a little bit better.

Ms Julie-Luce B. Farrell: You know we are currently working on draft regulations; they haven't been tabled and what not, so we're developing this as we're going along. As far as I understand, the health warnings that are currently being developed go much more to the risks. It's a warning as to the risk these investments carry. There's nothing, as far as I know, going to the government's liability or lack thereof, so far. Nothing has been provided in terms of direction to us to draft this.

Mr Sterling: I'd be interested to hear from the parliamentary assistant. Is there any consideration in a policy point as to whether or not there should be some statement of obligation or understanding with the investor what this stamp of approval by the government means.

Mr Johnson: There isn't anything specific, but I think we have to stress, as with any investment, that it's as you said: caveat emptor, buyer beware. That goes along with any kind of investment one might make. With the Ontario Securities Commission, when you're dealing with that kind of investment, within the act there is an avenue or there is a way people can get a health warning on how their investments might be affected. Within this legislation, within Bill 150, that would be the place to put any substantive regulation that would guarantee that, but there is no expectation that the government is liable for any of these investments. I think it becomes just an issue of buyer beware. But maybe Joe Lambert or—

Ms Farrell: I could read into the record the proposed health warning, and that would give you some indication of how this is going to be structured. The statement is supposed to be in bold print, and it will read something similar to: "No securities commission or other securities regulatory authority in Canada has in any way passed on the merits of the securities offered in this disclosure document, and any representation to the contrary is an offence. Neither the Ontario Securities Commission, the Employee Ownership Advisory Board under the Labour Sponsored Venture Capital Corporations Act, nor any other department or agency of the government of Ontario assumes any liability or obligation to any person proposing to purchase the securities offered hereunder."

This is not settled language, but that's the direction in which we are aiming in the proposed code.

Mr Owens: In terms of the regulations the OSC is working hard to prepare, I think that draft language answers your concern. I think the problem we're struggling with as members of the committee is, what is the process

that's going to lead up through the valuation process and the kinds of tests that are going to be applied? I gather it will be the Ministry of Industry, Trade and Technology putting together the valuation process. To me, that would be where the question would lay as to what tests of viability are going to be employed.

I think we've all recognized, especially with the employee ownership option within this bill, that we're not just talking about somebody investing in Maple Leaf Gardens or whatever. We're talking about communities, we're talking about homes, we're talking about people's entire savings, so I think perhaps we should be taking a look at the process prior to where the OSC kicks in. The OSC can draft the regulation and the health warning with respect to the caveat emptor provision, but I think before we get to that point there needs to be a fairly clear and precise process of valuation. I certainly have a question with respect to that as to where we are on that.

Mr Sterling: With regard to Mr Johnson's trying to paint a similarity with the present OSC dealing with a normal prospectus on companies, there's a major, major difference here. A person promoting a company doesn't have the strength when he's promoting that company of saying, "The Ontario government has given this a stamp of approval." As I see it, the way these shares are going to be marketed is on the basis of there's a prospectus, "And in addition to the prospectus we're giving you something else. We're giving you the stamp of approval of the Ontario government through its employee ownership board." That's the way it's going to be seen, Paul, regardless of whether you like it or not. There's going to be a government regulation through order in council saying that this is a good investment.

Second, when you're dealing with a prospectus in terms of a normally marketed corporation, in general you are dealing with people who have invested in other shares as well. If you want to call it more sophisticated with regard to the risks, they've probably won on some and lost on some, and therefore they view it as a caveat emptor kind of situation; in other words, "I put my money into this new corporation. I've won on some and I've lost on some, and therefore I may lose on this one."

Third, you're dealing with an emotional decision on the part of the investor as well as a financial decision.

All of those point to an investor putting in the money on the basis of other than an experienced financier putting his money up and expecting a return. Therefore I think it's incumbent, in terms of the legislation, to protect that investment to the realities of what he or she is doing.

1050

Mr Owens: Don't underestimate the sophistication of the person who might be involved with this within a company.

Mr Sterling: I guess I'm trying now to protect the weakest of them all.

Mr Owens: There may be issues with respect to language and things like that, but that's an issue we're looking at dealing with. But we shouldn't undermine or underestimate the sophistication of individuals who are out there in the

workforce. If we reflect on some of the recent spectacular business failures of the sophisticated investor that we've seen, I think there's good reason to be concerned about that as well.

Mr Sterling: I only have the experience of going through the Re-Mor/Astra Trust fiasco where people put up their life savings without asking the very basic questions, "Where is this money going?" and "What guarantees do I have?"

Mr Owens: In terms of the kinds of commonsense questions one would ask, how does one legislate common sense? This is again where I make my comments on the valuation process. It's my opinion that that process is the linchpin in the whole bill in terms of developing the viability. I'm confident in what the Ontario Securities Commission has developed as a regulation and as a health warning. But the linchpin is valuation, and the people who are marketing particularly the LSIFs are acquainted with the process and are able to communicate those processes to the potential purchasers.

The employee ownership stuff, as you quite accurately point out, is a whole different ball game. There's a whole different process that needs to take place around that.

Mr Sterling: I think the OSC was very skittish about it. They don't want anything to do with this if they can get away from it. I think that's the bottom line of all this. We're co-opting them into it. We're saying, "You're not only going to have a prospectus, Mr Investor; you're going to have a prospectus plus this," which is a stamp of approval. If you say that to the investor, then I think the warning to the investor, in fairness, has to be more than the normal warning you would have on the front of a prospectus when you're reading.

Mr Evans: I think the Ministry of Revenue does have some operational experience in relation to these issues. They derive from the administration of the Small Business Development Corporations Act from the early 1980s. In that case, we paid grants to the investors. In this case, it is a question of tax credits. But the communications plans for the small business development corporation administration and for the worker ownership administration will both emphasize that the intent here is that the government is sharing the risk with the individual investors and is not making its own investment in the corporation. So it is directly to the investors. The purpose of the grants and the payment is limited to that point.

We've been working within that framework now for some 10 years. Although there are obviously examples where people have lost considerable amounts of money and they inquire of the ministry, the position of the government has always been in relation to the administration of both grants and tax credits that we are sharing the risk and we are making payments directly to investors to do so. We're not doing it into the company as a question of defending or underwriting liability of the company.

Mr Sterling: I think the analogy is that there are significant distinctions to be made in terms of the type of investment we're talking about in these two vehicles.

The Chair: We'll go on to Mr Sutherland.

Mr Sutherland: Mr Sterling said that, you know, you're saying it's a good investment. I think what you're saying is that it's a calculated risk; that it's met some basic criteria but there's always still that risk element there and it's not an outright endorsement or a guaranteed return on the type of investment that's going on here.

If I could change tack for one minute, I want to ask some questions, or at least one question, about some of the testimony we heard last week, particularly the Canadian Federation of Independent Business testimony. They indicated to us in their presentation that they thought it was—I think they used "almost deceptive" to say this could benefit small and medium-sized business. They seem to think that because of the way it was set up and the different processes you had to go through, it would not be feasible for small business. I'm not sure what definitions they're using for small business.

I was wondering if you could comment. If we used the MITT model, which I believe is 100 employees or less, as the definition of a small business, how would you respond to their claim that small business will not be able to take advantage of this?

Mr Lambert: The purpose of this vehicle is basically as a venture capital vehicle and venture capital investment principles are going to apply. It's not true venture capitalism because of the element of tax credits and government incentives being provided in that manner, but venture capitalist investing principles are going to apply and commercial investment principles are going to apply.

When a labour-sponsored investment fund type of venture capital corporation is investigating whether or not a particular small business is a viable target, it may indeed preclude consideration of some of the small businesses that are members of that federation, the 80,000 to 90,000 members.

Just by the nature of the investment style of venture capital corporations, the size of the investment they have to make to make it worthwhile, to make it commercially viable for them to get the kinds of returns they want, a lot of the small businesses simply are going to be too small and won't warrant consideration. The average investment by venture capital corporations is somewhat in excess of \$500,000. If you measure small businesses in terms of just simply employees or if you measure small businesses in terms of the size of the capital that's already there, \$500,000 investments from venture capital companies are going to preclude a lot of them from being considered.

We don't have a stratification of the small businesses that make up the CFIB, but there's no denying that a labour-sponsored investment fund with a particular kind—it depends on the investment strategies they develop. There may very well be labour-sponsored investment funds that have a strategy which entails investing in companies that do indeed penetrate down to the level of the much smaller small businesses that form part of the CFIB. That remains to be seen. Where we could anticipate different kinds of labour-sponsored investment funds that will have varying kinds of investment strategies, that may very well indeed penetrate those lower levels, those smaller businesses.

Mr Sutherland: But if you take the MITT definition, is there a potential for a company with fewer than 100 employees to take advantage of this and still be somewhat viable to go through this process?

Mr Marrs: The only point I'd make of the Working Ventures target companies—I think there were two there and Joe would have the details—but my recollection is that those were at the small end of the scale. They were nowhere near the \$50 million in total assets and weren't anywhere near the 500 people, but I don't have the exact numbers on it.

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Mr Evans: As further amplification of what my colleagues are describing, we are not able to influence the objectives of the venture capital funds themselves. What is important in the structure of the act is that we don't provide structural impediments, within the act and within the regulations pursuant to the act, that actually prevent or make it less attractive for a labour-sponsored investment fund to make an investment in any particular part of the segment.

I believe, in terms of the description of the regulations or the investment code, that it is the intention to be sufficiently flexible so that the protection that is provided is appropriate to the size of the company or the sector of the industry involved. We are going to be most careful not to introduce structural impediments but that does leave, as my colleagues have shared, the question of the investment objectives of the individual funds.

The Chair: Mr Lambert, did you want to reply to that?

Mr Lambert: No.

The Chair: I thought someone else was going to have a reply down there.

Mr Lambert: I was reading.

The Chair: Oh, okay. I was just looking to the left and I thought it was Mr Lambert who had a reply. Yes, sir.

Mr John Whitehead: I'm John Whitehead from Treasury. I might just add to Jim Evans's comments that there are a good many small businesses, by our understanding, that may well be members of the CFIB that are two-, three-, four- or five-person operations, often in the retail sector. One of the major policy objectives of this program was of course to generate funds to permit businesses to restructure and reinvest and preserve and create jobs.

A good many businesses probably won't be seen as viable targets by venture capital investment funds, but there will be a good many small businesses that will. I suspect they will be in small manufacturing or processing operations, specialized fabricating and things like that perhaps as opposed to retail, which does compose a good chunk of the small business sector. But as Jim said, there is no structural impediment. They can invest in whatever they see as appropriate.

Mr Kwinter: I want to get back to Mr Sterling's comments about a recourse statement. He mentioned the same case that I mentioned in previous hearings that is sort of etched indelibly in my memory because I suffered with it for a couple of years. That was several years after it happened and it just didn't go away. I was picketed everywhere I went.

The Ombudsman even took up the case and made a recommendation that cabinet should in fact compensate these investors. Cabinet refused to do so and then the Ombudsman, in one of the rare opportunities, tabled it in the House.

What happened is that these people felt they had invested in a trust company that had been regulated by the Ministry of Financial Institutions. They felt that the Ministry of Financial Institutions had an obligation to make sure that company stayed viable. When it failed they felt that the government was responsible. The Canadian Commercial Bank in Alberta had exactly the same thing and the federal government bailed that one out to the tune of \$1 billion.

When Robert Wright, the chairman of the Ontario Securities Commission, was here, he said, and I quote: "I do not want to be taken as saying that I see a need for recourse for the investors, because I think that is very much a matter for the people who set the policy and who pass the legislation to decide. All I meant to say was that I think it should be clear whether or not there is recourse."

I suggest to you, given the unique situation where the investment is going to be scrutinized by an advisory committee, it's going to go to a vote and then it's going to go to the cabinet for official approval, just that act of having every single one of these proposed venture capital investments or employee buyouts go to the cabinet for approval is going to present a potential problem, because there are going to be unsophisticated people out there who, through peer pressure, whatever happens, are going to be convinced that this is a way for them to save their jobs or this is a way for them to do something.

They are going to invest their hard-earned savings, and—God forbid, and I don't wish any of these to fail—if it should fail, you are immediately going to be confronted by someone saying: "What's going on here? I invested my hard-earned money. The government approved it. I was under the impression, and I don't care what you tell me about the fine print, that I was going to be protected."

I think the general health provision disclaimer is not good enough. I think there should be a specific reference to the fact that notwithstanding cabinet approval, notwithstanding all these things, there is no obligation on the part of the government as to the long-term viability and the financial security, so at least some poor minister in the future will be able to take the thing out and say: "Look, there was a specific provision that says we have no obligation. I feel very badly that you lost your money, but we as a government have no obligation."

As I say, for someone who lives through it—it was a decision not of my making, but I still had to suffer the thing and I'm just trying to prevent that from happening in the future. We've got an amendment we're putting forward, but I would like to get your comments as to where the problem is with that.

Mr Whitehead: I'd like to focus on one aspect of the process. I'm not familiar with the case you're discussing, I think thankfully, but the Employee Ownership Advisory Board is there not just to help the government make a decision about its propensity to provide a tax credit in respect of a specific situation, it's there as well to provide a process for employees to have to go through to learn

exactly what they're getting into. The provision of human resources investment and financial plans for the proposed takeover is going to be quite a rigorous exercise, we expect, and one that may well turn a number of people off early in the game.

Early in the process of coming up to the decision about whether to invest one's money or not, a number of people may look at this and say: "Gee, you know, it's going to be awful tough. It looks awful risky." Part of the hope of the Employee Ownership Advisory Board is that people will be well aware going in, because of the demands that board will place on them, of the difficulties they may face in concluding a deal.

The other thing I think I would point out is that these deals could go forward anyway. The only real thing at issue here is whether a tax credit is provided in respect of the investments made. The government is not proposing to say, "You may not conclude this particular deal." The government is saying only, "You may conclude this deal with the benefit of a tax credit," or without. In that sense I think it's different than the kind of situation you were talking about.

The Vice-Chair (Mr Kimble Sutherland): Any additional comments from any of the other staff members?

Mr Marrs: In terms of the process, I can talk to that a little bit. I wouldn't want to minimize the fact that a government body passes on it. Certainly the concern you raise is valid. The board or the minister would not intend to communicate directly to the employees as part of this process, and I guess it would be a misrepresentation, an offence, for the promoter group, the insiders of the employee group, to represent that it had passed. But clearly the language will be there in the event of a failure, and if you were the employees who lost and you were looking for a recourse you might well look to government if you thought you could make a case.

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Mr Sterling: Can I just have one more comment? I guess one of the reasons I feel so strongly on this is that, as I see it, it's a fairly complicated process. You're going to involve large deals, but basically they're going to be, as I see it, not where employees are taking over a really profitable corporation but where corporations are in trouble. I would like it to be otherwise, but there's going to be an impetus for those people to be first in line.

So you add all of these things up and you say: "Gee, there's got to be some additional warning or understanding to the investor that the government's part is the 20% incentive that it's giving. That is our risk. If you lose your 80%, don't come looking to the government."

That's a harsh statement to say, but whether it's in bold red—I'm not sure how you do it—or the minister phones every investor or just what, but there's got to be some method of going above and beyond what we normally have seen on prospectuses in terms of risk. I don't know if you have any other suggestions as to how you could—

Mr Marrs: That's a fair comment. I guess I would add that there is a provision for an independent adviser who will, independently of us and independently of the promoting group, meet with the employee investors before

they make an investment decision. That will be after there's a receipted disclosure document. It will be their job, to the best of their abilities, to make sure the deal is well understood and the risks are well understood.

Mr Gerry Phillips (Scarborough-Agincourt): I will pursue that same line. I thought the Steelworkers made a very good presentation to us last week. Their strong advice to us incorporated a couple of things. One is that they said it's wrong to set up this advisory board. The role of the advisory board is to register an opinion that the proposal is reasonably commercially viable over the period covered by the proposal and is equitable to the employees in the circumstances. The Steelworkers said that's wrong; that shouldn't be done by a government advisory group.

The second thing the Steelworkers told us was that we are setting a trap for disputes with other governments by having orders in council approve these employee purchases. Their lawyers in the US have already gone to whatever the appropriate US federal authority is and have been told that if, for example, the Algoma arrangement had been signed by an order in council, it would be subject to various trade restrictions. I'm wondering why we wouldn't take the advice of the Steelworkers, who I think perhaps have the most experience with this, and rethink this particular proposal.

Mr Marrs: There are two points there, the establishment or non-establishment of the board, and I think Mr Kwinter made that point a couple of weeks ago. I interpret the Steelworkers to say there should be a board but they shouldn't turn anything down. That was my interpretation of their position.

Mr Phillips: No, that isn't what they said.

Mr Marrs: Those were my notes. I guess that was a decision made by cabinet—and maybe others can speak to it—but certainly I'm sure that decision of a board or no board came up and probably it turned on the issue of the unique nature of these investments.

Mr Phillips: And the second point?

Mr Marrs: On the countervail issue, I think they had a legal opinion from a law firm in the United States that clearly pointed to the order-in-council section of this act. I'm not an expert, but I'm not sure that's any different from what the development corporations do in terms of getting approval for a number of their loans. They get orders in council. I think, in terms of countervail, the issue it turns on, the first was: Was there a benefit given? Clearly if the Steelworkers or other groups got tax credits, they received a benefit. Second, is somebody harmed and does he lodge an action? So I think it's wrong to think you somehow escape the countervail because you have ministerial discretion or you don't, if a factor's of significant benefit in the case of Algoma.

Mr Phillips: So you have a legal opinion that says the Steelworkers are wrong?

Mr Marrs: I do not have a legal opinion.

Mr Phillips: The government does, though?

Mr Marrs: Not that I'm aware of.

Mr Lambert: I think Mr Marrs's suggestion was that the Steelworkers had the legal opinion from a firm in the United States, a countervail specialist.

Mr Phillips: Yes, but I'm just assuming that the government has developed a similar legal opinion that says they're wrong.

Mr Lambert: I don't know that we specifically addressed their legal opinion.

Mr Phillips: But surely an important element of this is, will we be subject to countervail by the government?

Mr Lambert: The principle of whether something's subject to countervail revolves around how focused the government assistance is. In this case the government assistance is generally available to any group of employees in any kind of business that decides to pursue an employee buyout. It's not sector-targeted, it's not industry-specific, it's not firm-specific; it's generally available. My understanding at the time the policy was being formulated with respect to that particular issue was that as long as you're dealing with incentives that are generally available there's less likelihood countervail will be a problem. But there's also the consideration that regardless of whether there's specific government assistance being provided to an industry or to a business or whether there's just a perception of government support, countervail will occur anyway. In other words, an action will be taken first and the facts will be ascertained later. In a lot of cases the facts aren't necessarily relevant; it's the perception.

To summarize here, I think the Steelworkers were particularly sensitive to the threat of countervail because they're in an industry which is very sensitive to that sort of thing, so they had particular concerns. But as I said, if countervail revolves around government support of a general nature, then that's what we have here. It's a tax credit that's available to employees in any business or industry who decide to pursue a buyout. That would be the defence. We would rely on that principle and we would suggest that we had fulfilled that principle in that respect. It's a generally available program that has general application.

Mr Phillips: Can I pursue this, Mr Chairman? The steel people, who, to repeat myself, have more experience, say, "Listen, we want to use this vehicle for additional employee buyouts, and this"—I think these are the words they used—"is a serious problem with the bill." Why we would want to proceed to incorporate a serious problem without having a legal opinion that says it's not a serious problem perplexes me.

The second thing is that I think they were saying that the role of the advisory group shouldn't be to approve everything but that it should be different from this advisory group. I don't think there's any doubt that if I were an employee and I'd exercised the right to buy my company and five years from now I got these minutes that said, "What was the role of the advisory group," and it was to determine that it was commercially viable and equitable to the employees in the circumstances, I wouldn't hesitate. Again, I would welcome what legal opinion we've had on what protection the government has, but I would say: "Listen, you put your stamp of approval on this thing as

being commercially viable. It's gone down the tubes and I've lost all my money. I'm holding you accountable for it."

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Mr Lambert: That stamp of approval, as you put it, isn't really a stamp of approval in that sense. All that's happening is that a group of representatives from three sectors of the province—labour, business and government—are looking at an investment proposal based largely on projections, suppositions and assumptions and, relying on that and their knowledge of the industry that particular business happens to be in, are trying to arrive at a conclusion as to whether or not there's commercial viability. That's not necessarily an approval and not necessarily implicit of a guarantee that in the event the business fails the government is liable to replace the investments.

It seems to me that whether or not this program is there, whether or not there's an explicit liability, if a business fails, with this program being in place or not, the government has liabilities that are existent anyway. The employees would be able to avail themselves of that general government support.

Mr Phillips: Of course.

Mr Lambert: I just wanted to make that point, and while I'm on a roll here, I just wanted to suggest that one of the points of the program, particularly on the employee ownership side, was to try to encourage more worker participation.

Also, because of the nature of the program, there's a certain amount of capitalist principle involved. If the employees don't have a real financial commitment to the investment, that will affect their decision. Employees going into one of these deals know they're on the line, net of the tax credits that are being provided, net of the incentive that's being provided, and that will hopefully encourage them to perform the due diligence that any capitalist would undergo in deciding whether or not to make the investment. Therein lies the essence of the decision. If you impose a government guarantee or an explicit government liability if the investment fails, it seems to me it'll distort the investment decision.

Mr Phillips: You don't have to sell me on the importance of employee—I ran companies and all the employees owned them. I had a small position, and all of my employees, all the people who worked with me, owned it. I'm committed to it, I believe in it, but in my opinion, as the Steelworkers said, let the employees figure out whether it's viable or not. In my opinion, don't have a government agency that is going to be the overseer of this thing and say whether it's viable or not. There will be degrees of viability, and I have complete confidence that employees have the wherewithal to understand the risk they're taking. There may be some instances where a third party would say, "Frankly, we've got some concerns about whether that is commercially viable or not," but the employees may say, "We can make it go."

It's not a question of convincing me of the importance of employee ownership; it's who should have the responsibility. I'm just saying I think the Steelworkers made a fine presentation of saying, "You should put the onus on the

workplace partners to make that determination, not some bureaucracy at Queen's Park that is going to make that determination."

I think the Steelworkers said there should be somebody who says they have met the criteria of the regulations so that they've fulfilled it, there's been complete disclosure to the employees, they understand exactly what's happening. But to put a stamp on this as commercially viable by somebody outside the workplace, I just have real questions.

The government has the votes, the thing is going to proceed, and it's probably a bill that one has difficulty opposing, but I thought—I'm repeating myself, Mr Chairman—the Steelworkers, who know this stuff, make good points, and we've chosen to go against the recommendations.

The Chair: Mr Sutherland.

Mr Sutherland: I'm sorry; I don't have a question right now.

Mr Johnson: I'd just like to add a few comments with regard to the investor protection question. I know Mr Kwinter made a quote from Mr Wright of the Ontario Securities Commission some time ago, and I'd like to quote Mr Wright again. It's with regard to employee ownership and investing in companies and protection features:

"They are investor protection features and I would go so far as to say that in my view, and this is a personal view, they are more appropriate and better than the requirements in the existing Securities Act when applied to these kinds of purchases of securities."

I think he would be an expert in securities and investor protection and I think that comment has some merit. He's suggesting that within this bill there are a number of features that would amount to significant investor protection leading up to that point in time when the decision is made whether the particular company is expected to be, with reasonable expectation, commercially viable.

Of course, I just want to reiterate that a part of what offsets the risk, and it's only a part, is the tax credit and I think that's already been mentioned.

I recognize that some of my colleagues in the opposition have been around here longer than I have and undoubtedly have more experience. I've heard what Mr Kwinter has had to say and I respect his experience and the situations he's been in within his ministry when he was minister. I recognize that there have been some problems in the past and it may be that in the past there wasn't the significant protection that was required to ensure investments were secured and there was adequate protection.

The Small Business Development Corporations Act, I guess it was from 1979, certainly has allowed for investments that have gone awry, I might say, and presented some problems with regard to securities of investments.

I think also that as we've been speaking about the guarantees or protection one should have under the circumstances, I believe you've been talking about some of your concerns that have to do with funds on deposit and depositors in institutions. What we're talking about now is equity positions and I think there's a difference there. All the avenues this bill has made available with regard to the research: the fact that there is a business plan, a human

resources plan, a feasibility study; there are independent advisers; MITT has an advisory board and review board; the Ministry of Revenue has some involvement; the Ontario Securities Commission will administer provisions of Bill 150; there's a health warning.

I think after all these are taken into consideration, surely if something did not have a reasonable expectation of being commercially viable, it wouldn't go forward. It wouldn't get that stamp of approval, I would think, so it wouldn't become a problem. It wouldn't become problematic at some point later on. Those things that appear to have a marginal, or whatever, expectation of success, I guess, may get that stamp of approval. What I hear is, you're suggesting that every single company is going to get the stamp of approval and that would suggest that even companies that can't be expected to be successful will get cabinet approval and I think that's wrong. I think that—

Mr Sterling: You just proved our case. You've absolutely just proven our case, Paul, by saying—

Mr Johnson: Absolutely?

Mr Sterling: Yes. What you have said is that they won't give approval to anything that could fail. That's what we're arguing; that's how the guy in the street is going to interpret it. You've interpreted exactly—

Mr Johnson: No, in my opinion, you're misinterpreting what I'm saying. I'm saying that the things that appear to have the best opportunity for success would be approved, once it's taken through this complete scenario that I've just laid out for you.

Mr Sutherland: If you remember the comments earlier about "a good risk," I think that's the way—you need to keep in mind—it's a good risk based on some commonly accepted process; the evaluation processes and those types of things. But again, no guarantee.

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Mr Kwinter: I really think you've missed the point. I have no quarrel with all of that. What I'm saying is that once it's all done and the matter—it could be the greatest investment going and then it fails after all of this. Then somewhere along the line there is going to be some disgruntled investor who is going to say: "All these wonderful things that you've just told me were in place and failed. You didn't do your due diligence, because why did it fail?" I can tell you that in the environment we're living with right now, six months ago if anyone had suggested Olympia and York was going to be in trouble, it would have been unheard of. All I'm saying is here's an opportunity to put a provision in this bill that just makes sure the government isn't liable.

But I want to get back to another thing, because I now have found the transcript. We are talking about labour support. You and a couple of the members on the government side were saying they didn't approve of some things, but generally they were in support. Mr Gindin said, when he was asked about this, that he was "more interested in stopping it and getting it changed." This is the bill. This is the assistant to Bob White, the president of CAW, who says that his interest in this bill is stopping it and getting it changed.

Right after him, Mr O'Neil, who is the secretary-treasurer of the Canadian Auto Workers, said: "If you're asking whether, if this happens to pass, we will encourage, in fact we'll discourage workers and will lay out what we think are the consequences of investing in this program. So we will not be supportive; there's no question that at the end of the day we will not be supportive of this bill if it gets passed."

That isn't sort of maybe on the one hand and maybe on the other hand. They're saying, "We are not going to support it; we are not going to encourage our members to participate." That surely has to send out some kind of signal that maybe we should take a look at this thing and do something to get the support of the people who were supposed to be sponsoring it and who are supposed to be the major beneficiaries.

The Chair: Mr Owens, you had your hand up for a response. Or did you have a question?

Mr Owens: In terms of the liability issue, frankly I don't think we'll ever be able to protect or keep that one disgruntled or group of disgruntled former shareholders from claiming they have been misrepresented or that they felt they were investing in something that was viable and then failed and that it's the responsibility of the pedlar of the security or the person doing the valuation. I just cannot think of any way you could possibly do that in any investment. You're a person who has been in business for a long time and the Minister of Financial Institutions. I think you clearly understand that in terms of that person who feels he or she has been wronged, you're never going to be able to prevent that.

I think in terms of the language again, with respect to the warning that Julie read earlier from the OSC, it says clearly, "No securities commission or other securities regulatory authority in Canada has in any way passed on the merits of the securities offered in this disclosure document and any representation" etc." That's draft. That's looking to be strengthened.

On the next draft is the suitability for investment: "The securities offered hereunder may be highly speculative in nature and may not be a suitable investment, applying the usual investment criteria and having regard to income, net worth, age and source of investment funds of the investor." How much plainer can you get?

Mr Johnson: I would just like to make a point. Maybe we could conclude the back-and-forth bantering we have over this concern and tell Mr Kwinter and Mr Phillips that the government is prepared to accept your first amendment to section 6, which would, I think, alleviate some of your concerns.

Mr Phillips: That's a start, and that's fine. I'm just saying that the Steelworkers came in here last week and made a strong pitch. You've chosen to ignore it, and all of what you've said earlier just reinforces our concern.

Somebody five years from now will get the Hansard out and say: "When was that hearing? It was assured that MITT would look at the commercial viability, the advisory board would look at the commercial viability etc." The Steelworkers are saying to us: "Listen. That's not the right approach. You should put the responsibility in the hands of

the workplace parties to do that, not in the hands of some bureaucracy down in Toronto to do that. We're going to be handcuffed if we want to work with one of our locals on buying out one of our operations, because if it's got to meet all those criteria, it ain't going to meet it."

We're all prepared to take a risk. It may not be commercially viable. We're prepared to take a risk, and they're telling us, "You're going to handcuff us." I'm just saying that if you want to do that, you've got the power to do that, but you may undermine what I think the Steelworkers saw as the objective.

Mr Sterling: Could I move to another one of the amendments of the Liberals? I'm not even sure in accepting the amendment that's going to—I mean, that says something in the statute, but I'd really like some warning bells to the investor. But let's go on to something else.

Under one of their amendments, the last amendment, which I consider to be the most important one and the one I have a great deal of empathy with, that is, the employee organization definition, we have heard that the government is willing to include workers' co-ops. Therefore the previous objection we once heard in this committee with regard to the fact that the federal government had not agreed to give its 20% to any expanded definition of an employee organization falls by the wayside, because worker co-ops are not included within the federal program. Therefore we're creating two stages here of labour-sponsored venture capital plans. On the one hand, if it's put forward by a union, the investor gets 40%. If the workers' co-op puts it forward, we get 20%. I think those were the old figures. I don't know if those are the same figures now or not.

The Liberals have put forward an amendment which I understand comes from the Saskatchewan legislation, which includes three kinds of groups that may participate, a trade union, an association of trade unions or an association of employees that is not a trade union but that is recognized by the employer of the employees as a representative of the employees. I would assume that the third one would include workers' co-ops, as I would read it. What is the objection to the expanded definition?

The Chair: I think Mr Evans can answer that.

Mr Evans: I'm not sure I can answer that question directly, but I can provide some amplification of the question of the 20%. The 20% is the provincial tax credit. The question of whether there is a matching 20% federal tax credit remains untested at this time. There are other provinces with definitions that provide for investment co-ops or co-ops of some kind or another to establish investment funds, but to the best of my knowledge, none of those has yet has been instituted or carried forward so we would understand whether in fact the federal government would provide a 20% matching credit. It's simply unknown to us at this time.

Mr Sterling: That's fine. I hope they can get the extra 20%, but I assume that the inclusion of the word "co-ops" is done on a basis that it's not assured that you're going to get the 20%.

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Mr Evans: Broadly speaking, we believe that using the definition of "worker co-op" within Bill 150 at least has some parallels as to the spirit and intent of the legislation. It would be our hope that the federal government would consider the matching credit and we think that "worker co-op" broadly describes a position that is not inconsistent with the original bill.

Mr Sterling: I now have the corrected Liberal motion—

Mr Phillips: The latest version.

Mr Sterling: —the latest version, which includes the trade union association non-profit corporation—I guess there are two additional here—"all of whose shareholders are employees of the same employer; or any other association of employees or class of association of employees that is prescribed in the regulations." What's the objection?

Mr Sutherland: At this time I'm not sure exactly what they are. Maybe Mr Owens can comment. If not, maybe we can get back to you this afternoon and give you some more response to that, okay?

Mr Owens: I would appreciate that. I don't even have a copy of the newest version of your amendment. Perhaps I could get a copy.

Mr Phillips: Neither of them are dated, so I apologize for that, but it's essentially the Saskatchewan model that—

Mr Owens: The quick response is that in terms of the tax credits, they're apparently for the expanded version that you folks are putting forward. There are no matching tax credits available. I'll double-check that and we can discuss it this afternoon.

Mr Sterling: We know that. What we're saying is, why be bothered with that. What's the difference?

Mr Owens: If we bothered with—

Mr Sterling: No. Why is it matching? What's so pervasive about the argument that there have to be matching federal—we don't know it for sure in terms of worker co-ops, which you've already agreed to.

Interjection: It makes it more attractive.

Mr Sterling: It makes it more attractive for the investor, but if somebody can set one up with less financial attractiveness to the investor why not let him?

Mr Johnson: It's an interesting comment that Mr Sterling raises. I think that if a worker cooperative were to set up some kind of LSVCC, then not being as attractive may suggest that there wouldn't be the interest to invest. Part of the risk, again, is offset by the tax credit, whether it be an Ontario credit or a combination of both. I recognize your point as a valid point but we'll get back to you with regard to that.

Mr Phillips: I want to make sure everybody has the right copy, so before I leave here—

The Chair: Is that the one that says "government motion" on the top?

Mr Phillips: Not yet.

The Chair: No, there was a typing mistake. I asked everybody to strike out "government motion."

Mr Phillips: Okay, and just by way of background, this is essentially the one that's in Saskatchewan, which was one of the earlier groups. Originally there was some objection by the government, I gather, to include anybody who didn't currently qualify for the federal matching tax credits. But as my colleague said, it's fairly clear now that this is not going to be restricted because the co-ops, as I understand it, currently don't necessarily qualify and that the government's said that's no longer necessary.

What's heightened our sense of urgency on it, I guess, is that the Premier has talked about this as being an important tool in the economic renewal, although there was some confusion the other day in the House. I don't think the Premier understood this bill as well as some others do. But now that the Ontario Federation of Labour has said it won't participate in it, it seems we're going to be fairly restrictive in terms of the numbers of organizations that will manage the venture capital funds. So it seems, as I say, that the sense of urgency may have been heightened a little bit in not restricting it just to unions to be able to run the venture capital funds. There may be some other employee groups that would want to step in and fill the breach.

Mr Sutherland: He's making a comment, in terms of the Premier saying it's an important plank. I think what we've said is that it is a plank of economic renewal. It's one of the tools that make it more available. You've wondered about the restrictions on those who haven't tax credits, and we've said that we will take that and try to get back this afternoon with some more additional comments as to whether there are further objections still.

The Chair: Any more questions?

Mr Sterling: Just on the other Liberal amendment, is there any comment that you'd like to make on it at this point in time?

Interjection.

Mr Sterling: Okay. Fine.

The Chair: Fine. The committee will adjourn until—

Mr Sutherland: Mr Chairman, just before we do that, on another point of business, Mr Phillips last week requested to see whether the Treasurer would be able to appear before this committee before the end of June. Since Mr Christopherson was away last week, I took the initiative and talked to the Treasurer. He verbally has given some indication that he'll try to make an appearance here. That may be on the last day that the House and the committee are sitting.

Mr Phillips: You mean the end of July or early August?

Mr Sutherland: I'm going on the basis of the schedule of June 25.

Mr David Christopherson (Hamilton Centre): Dreaming.

Mr Sutherland: He's given verbal assurance, if we can work it around his schedule, that he would be willing to appear before the committee.

The Chair: Okay. This committee is adjourned until 3:30 and we'll be going through the clause-by-clause.

The committee adjourned at 1147.

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- ***Vice-Chair / Vice-Président:** Sutherland, Kimble (Oxford ND)
 - Caplan, Elinor (Oriole L)
- *Carr, Gary (Oakville South/-Sud PC)
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- *Sterling, Norman W. (Carleton PC)
 - Ward, Brad (Brantford ND)
 - Ward, Margery (Don Mills ND)
- *Wiseman, Jim (Durham West/-Ouest ND)

Substitutions / Membres remplaçants:

- *Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Ms Ward
- *Owens, Stephen (Scarborough Centre ND) for Mr Ward
- *Grandmaître, Bernard (Ottawa East/-Est L) for Mrs Caplan

*In attendance / présents

Also taking part / Autres participants et participantes:

Evans, Jim, executive director, revenue services and operations division, Ministry of Revenue
Farrell, Julie-Luce B., senior policy analyst, policy and planning branch, Ministry of Financial Institutions
Lambert, Joe, legislative specialist, small business development corporations program, Ministry of Revenue
Marrs, Bob, manager, employee ownership, Ministry of Industry, Trade and Technology
Whitehead, John, senior budget adviser, Ministry of Treasury and Economics

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service



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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Official Report of Debates (Hansard)

Thursday 11 June 1992

Journal des débats (Hansard)

Jeudi 11 juin 1992

Standing committee on finance and economic affairs

Labour Sponsored Venture
Capital Corporations Act, 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur les corporations
à capital de risque de travailleurs

Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 11 June 1992

The committee met at 1009 in committee room 1.

LABOUR SPONSORED VENTURE CAPITAL CORPORATIONS ACT, 1992

LOI DE 1992 SUR LES CORPORATIONS À CAPITAL DE RISQUE DE TRAVAILLEURS

Consideration of Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments / Loi prévoyant la création et l'inscription de corporations à capital de risque de travailleurs aux fins d'investissement dans des entreprises ontariennes admissibles et apportant des modifications corrélatives.

The Chair (Mr Ron Hansen): This morning's business will be amendments to Bill 150, An Act to provide for the Creation and Registration of Labour Sponsored Venture Capital Corporations to Invest in Eligible Ontario Businesses and to make certain other amendments.

MINISTRY OF REVENUE

The Chair: This morning we have the minister, the Honourable Shelley Wark-Martyn, starting off. She has until 10:30. She has another engagement and will be leaving us at 10:30. Would you like to make your comments, Minister?

Hon Shelley Wark-Martyn (Minister of Revenue): I am pleased to be given the opportunity this morning to reflect on the public submissions we have heard so far and to move into clause-by-clause consideration of Bill 150.

I would like to begin by saying that I have monitored the committee process with interest. A number of insightful and interesting comments have been raised by both presenters and committee members. Although there have been some criticisms of parts of the bill, on the whole comments have been useful and positive. Some of the suggestions put forward have been adopted and are reflected in amendments which will be considered during clause-by-clause. One such example has been the decision to allow worker cooperatives to form labour-sponsored investment funds.

Before we go on, I would like to respond briefly to a few points which have been raised.

In relation to the question of support for the bill which was raised by Mr Kwinter in the House, I would like to make note of the strong support from labour for the concept of worker ownership and venture capital investment contained in Bill 150.

The United Steelworkers of America union in particular has been very much in favour of the concept and, with the restructuring of Algoma Steel in Sault Ste Marie, is embarking on one of the largest and most innovative experiments in worker ownership in North America.

The Canadian Federation of Labour is very supportive of this bill. The CFL, as you know, has sponsored the

Working Ventures Canadian Fund, a nationwide venture capital fund which in Ontario alone raised over \$28 million in new capital for investment in Ontario business. It is my hope that their investments, and others, will help to encourage good ideas and new businesses in our economy.

A number of presenters that have appeared before this committee, including the Ontario Federation of Labour and the Canadian Auto Workers, have expressed some reservations about the labour-sponsored investment fund side of the bill while supporting the concept of worker ownership. Both the CAW and the OFL endorse a rather different type of worker investment than that contained in Bill 150.

I would also like to emphasize, in response to some comments that have come forward, that the labour-sponsored investment funds were designed not just to benefit or encourage the participation of organized labour. The LSIFs will be sponsored by labour; they are designed for the participation of all working people and all Ontarians in the economic regeneration of our province.

I would finally like to address concerns that have been expressed, particularly by members of the opposition, that persons investing either in their own company or a labour-sponsored investment fund will feel that because it is a government-sponsored program the government is guaranteeing the investment. There is of course no such thing as a guaranteed investment in these situations, and this must be recognized, especially by investors. The government's responsibility, as members have noted, is to protect the investors to the maximum extent possible while at the same time disclosing the very real risks investors are taking.

I believe both of these imperatives are well served by the many checks and balances in the investor protection regime in this bill. Both LSIFs and worker ownership ventures will be required to undergo a rigorous process of approval and will have to fulfil ongoing disclosure requirements. Most important, the risks investors are taking will be fully described to them.

In fact, the substantial tax credits are offered as a partial offset against the risks investors take in these types of investments. On the LSIF side of the bill, units in the funds will be sold by registered dealers who are required to point out to clients that investment in funds providing venture capital is considered a risky investment. On the worker ownership side of the bill, so-called "health warnings," or large, upfront warnings, about the investment are a requirement under the investor protection regime.

The bill has been carefully constructed to help foster the process of economic development in this province. The bill is not a bailout program and it is not an ill-conceived bonus scheme. For each government dollar spent on tax credits, \$4 of individuals' money will be invested. I believe that is good value, and the money will be going where it is needed in the economy.

It is important to recall that this bill is not a cure-all for all the ills of our economy but will be very useful in certain situations and sectors of the economy. It is one of this government's first initiatives designed to encourage economic renewal and it is an example of this government's commitment to developing real partnerships among business, labour and government. This strategy will help the province to emerge from the current recession in a strong and more competitive position to respond to the economic challenges of the 1990s and beyond.

Mrs Elinor Caplan (Oriole): You mentioned Algoma in your opening remarks. It's my understanding and belief that this bill does not reflect the Algoma model at all. I was surprised that you would use the Algoma worker ownership plan as an example of organized labour support for this bill. Could you explain why you would have done that?

Hon Ms Wark-Martyn: The Algoma Steel workers and the union people were very much a part of why this bill was created and a part of our economy that was missing for workers who wanted to get involved in the workplace. So although they are not now using this plan, they are still very supportive and were very much a part of the concept of having this sort of plan in Ontario's economy.

Mrs Caplan: Given some of the negative comments from some of the organized labour union leadership about this model—we've had some of them say they would not recommend this to their membership. I think the fact that the Algoma solution is not the solution at all suggests that perhaps you've got a different picture from the one you've tried to present to us this morning. If this is such a good model, why was this not the model that Algoma chose to use?

Hon Ms Wark-Martyn: I think you're referring to some of the comments that were made by some of the presenters as they came forward to the committee. My understanding from talking to them was that there was one part of the bill, the labour-sponsored investment funds or LSIFs, which they did not agree with, and at this time they have no reason to need or to have access to that part of the bill, but they were in favour of the worker ownership part of the bill, of which they are very supportive. Hence, that's why their comments were made. We still feel and I still feel that it's a bill that can be used by companies if they need to use it, and it's accessible for them now to use it.

Mrs Caplan: I was also pleased to hear your comments regarding the opportunity for participation, and I'm assuming that what you've said has implied that you will be supporting the amendment we're putting forward regarding the definition of employee organization. I note that the government amendment you have tabled still includes other organizations of employees or class associations of employees that are not either co-op or worker ownership, and I'm hopeful that perhaps you've reconsidered and will allow the amendment to go forward that would include other organizations and associations that are capable of sponsoring this kind of plan, so that they're not excluded.

Hon Ms Wark-Martyn: We've decided not to allow that amendment, and maybe, Jim, you can explain the technical reasons for that.

Mrs Caplan: No. I don't want the technical reasons; I want the policy reasons. The minister's here and I'd like the minister to explain why this is only going to be available to organized labour and co-ops.

Originally the policy pronouncement we heard from the government was so that it would be compatible with the federal government. We know that what's in place in Saskatchewan and British Columbia is a broader definition. We're very supportive of worker ownership and believe the sponsorship of these plans should be available to organizations who have the capability. There may be many that are not within the definition of co-op and worker ownership, and I don't understand why, from a policy point of view, you're excluding them. I'd like you to explain that.

Hon Ms Wark-Martyn: The decision not to include them would be the Treasurer's under the policy. My role is to implement the policy as set out by the Treasurer.

Mrs Caplan: Minister, you are a member of the cabinet that made the policy decision here at committee. As you defend your legislation, I'd like you to explain your policy decision to us. It's the government's policy decision, not the Treasurer's, and you're a member of the government.

Mr Kimble Sutherland (Oxford): I don't know whether the member for Oriole would like an answer or not. We're going to have an answer provided and—

Mrs Caplan: Yes, I would like an answer, Mr Sutherland, from the minister as to the policy of the government. I don't want a technical, bureaucratic analysis of the bill. What I want to hear from the minister is defence of her policy.

Hon Ms Wark-Martyn: The decision was made that worker co-ops and unions could have a different interest than when you get into associations. You don't know what you're getting into for associations. They can have broader mandates. They could have different interests within an association; hence, the decision was made that we would accept worker co-ops and unions into this legislation. That was the policy decision and that was the reason for that decision.

Mrs Caplan: Were you aware of the experiences in Saskatchewan, where this is open and available to other organizations?

Hon Ms Wark-Martyn: My understanding is that there was no experience of that sort in Saskatchewan.

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Mrs Caplan: Given the fact that that is the situation there, it seems to me that the policy decision, which is exclusionary, is not in the public interest in Ontario. I'm wondering whether you felt there might be some benefit for Ontario to have a compatible definition with other jurisdictions such as Saskatchewan.

Hon Ms Wark-Martyn: My understanding is that Saskatchewan does not also have that definition you are describing, and the advice of my staff agrees. If you have different information and places where you see it's been tested and worked and is part of legislation, we can deal with it then, but our understanding is that it has not been tested and used in Saskatchewan.

Mrs Caplan: I believe the amendment that has been put forward would make this legislation compatible with other legislation in other jurisdictions in Canada. The opportunity for other associations or organizations of employees or class of associations that could prove they were able to provide the infrastructure to participate in this legislation it seems to me would be in the public interest and not as exclusionary as your policy decision seems to be. If you're really committed to worker ownership and participation and there is an association of employees or a class association and this is going to further enhance their opportunity, I have some difficulty understanding your policy development process that would exclude. I would think you'd want to make it as broad as possible.

Hon Ms Wark-Martyn: No, you don't want to make it as broad as possible, especially if you know it hasn't been used or experienced in any other place in the country. You want to go with some of the programs you know have worked with unions and cooperatives, rather than expanding a program into all areas without knowing and being able to consult with anybody else across the country who has had experience with associations becoming part of the process. That hasn't happened. Therefore, if it does happen we will then be looking at it, but we're not going to jump in with both feet knowing that experience is not there anywhere else in the country.

Mrs Caplan: Again, I would argue that in fact the opportunity is there in other plans. In other words, this amendment is permissive and would allow for that development, whereas in order for that to happen in the future under your legislation would require a legislative amendment and change, which would hamper that kind of development. Ontario has always taken positions of leadership in this country and, as I say, there are other jurisdictions where legislation is in place which is permissive and would allow for that, in my view, appropriate development to move ahead. It seems to me very short-sighted of your government to not at least have that opportunity available in the legislation without the future cumbersome process of requiring legislative change.

Hon Ms Wark-Martyn: We're not prepared to include that amendment. From talking with the other provinces, they've stated yes, it is there, but no one is coming forward or is asking to use it, so there is no need for it. They also could not tell us the impact that would have on the rest of our programs if we allowed smaller entities to become involved.

Mrs Caplan: I think it's very short-sighted of the government at a time when you're moving forward with the kind of legislation that may—as this is new anyway in the province of Ontario—may enhance opportunities which have not been available to this point in time. To make it exclusionary, only for organized labour, only for big unions, only for those who have the ear of the government, and for co-op workers—I am pleased that at least you have opened it that far—I think is a misguided public policy and not in the interests of the people of the province of Ontario. Many other organizations—associations of employees and class associations—may have an interest in this at some point in the future, and you've placed a barrier

and a roadblock to their participation by requiring legislative amendment before that could even be considered. It seems to me to run contrary to Ontario's policy development position in this country, and I'm very disappointed that you've taken that misguided and short-sighted point of view.

Hon Ms Wark-Martyn: I must clarify. Under the employee ownership part of the bill, any group of employees can become involved. They don't have to be unionized or part of a union organization. Any group of employees can become involved.

Mrs Caplan: But they must do it through a labour-sponsored plan, a union-sponsored plan.

Hon Ms Wark-Martyn: Not under employee ownership, no. Only under the labour-sponsored investment fund, yes. Under the employee ownership part of the bill, no.

Mrs Caplan: And the labour-sponsored investment fund is the part you are excluding: any other organization or association. You are saying only unions and only co-ops.

Hon Ms Wark-Martyn: That is so we could get the same credits the federal government also gives to the unions and the co-ops. That's why we have done that. We also feel that to expand it to allow anybody, we'd then be getting the criticism from the opposition that we are allowing anybody to make investments and get the tax credits, and we can't afford to do that as a province. Going into this kind of economic initiative, we feel we are going to go along with other jurisdictions and with the federal government on the tax credits.

Mrs Caplan: Thank you, Mr Chair.

The Chair: Any other questions of the minister? I would like to thank you for coming to the committee this morning.

Hon Ms Wark-Martyn: Thank you.

The Chair: I guess we're ready for clause-by-clause. Mr Kwinter.

Mr Monte Kwinter (Wilson Heights): No. I wouldn't mind repeating the question I asked yesterday. I was waiting for the minister to be in the House for the last couple of days and she unfortunately wasn't there, so I didn't get a chance to ask her.

I've had this discussion with the Premier and I had it with the Minister of Labour. I want to emphasize that I am not in any way trying to be critical, obstreperous or anything else in this bill. I came into this committee quite prepared to support it because I felt that labour was supporting it. You can see that we as a caucus have put forward three amendments, relatively few amendments. Most of the amendments are government amendments.

I ask the same question: If this bill, which is called a labour-sponsored venture capital bill, does not have the support of the Ontario Federation of Labour in one of its aspects, does not have the support of the Canadian Auto Workers in both of its aspects, we now have the then-president or still president of the CAW becoming the president of the Canadian Labour Congress saying, "Not only are we not supportive of this bill, but we will actively discourage our members from participating."

So my question is this: If this bill is intended to be labour-sponsored and to be for the benefit of labour members and they are not supportive of it in their organized institutions, how can you possibly expect that this thing is going to have any takeup? We have quotes from the CAW saying that hard-earned money of workers should not be put at risk in these kinds of proposals. We have the Ontario Federation of Labour saying in convention, "We do not support this." If this is meant to be for their benefit and they are not supportive of it, then surely there's got to be something wrong with the vehicle, and we've got to go back and redesign it. Surely there has to be a move to say, "How can we get labour to buy into this thing?" because if they don't buy in, who is going to buy in? It's a labour initiative, and organized labour is saying: "We don't want any part of it. It's not what we wanted. It's not going to serve our purposes and we're going to discourage our members from participating." I would be very interested in hearing what the minister has to say about that.

Hon Ms Wark-Martyn: The Canadian Federation of Labour, the only large labour organization to have actually set up an LSIF, is very much in favour of the legislation.

Mr Kwinter: That was under the old president. There is a new president who is opposed.

1030

Hon Ms Wark-Martyn: Their fund, Working Ventures, has been extremely successful and raised over \$28 million in Ontario during the last RRSP season, as I believe the committee heard when they presented here. The worker cooperative movement is very much in favour of the LSIF concept and plans to make use of it as indicated by John Brouwer to the committee. The Canadian Federation of Independent Business' own statistics indicate that access to capital is deemed to be a serious problem by almost a quarter of its members, and these members do not include the many people with innovative and potentially viable business ideas who were not able to enter the economy because of lack of access to venture capital.

The structure of the labour-sponsored investment fund was largely dictated by existing federal legislation in order to receive matching tax credits. The motivation for offering tax credits is both to make the investment more attractive and to better offset the risks to investors.

The OFL and the CAW are certainly entitled to their views, but it should be noted that their proposal for a social investment fund has rather different objectives than LSIFs. The LSIF program is one of general application, not designed to benefit any sector in particular but to assist Ontarians to invest in all emergent sectors of the economy. Any Ontarian can invest in LSIFs and claim the tax benefits while participating in Ontario's economic development.

Mr Kwinter: Can I make another observation before we leave this?

The Chair: We have one problem. The minister has to leave right at 10:30 sharp. I said that at 10:05; that's why we started.

Mr Kwinter: Maybe the minister can leave and I'll just make my comments to the committee.

The Chair: Fine.

Mr Kwinter: One of the problems I have with this concept is that if it doesn't have the wholehearted support of labour, what it becomes is a vehicle for evading taxes as opposed to a vehicle for creating a labour fund.

We had a similar situation when the federal government brought in its fund to provide incentives to invest in research. Immediately the accountants and the lawyers got hold of it and said, "Here's an opportunity for us to set up deals that in effect will give you some tax credits." What happened was that we found there were many proposals, many vehicles registered as research-driven funds, but no research got done. The only benefit was that people got tax credits. What you had was a whole series of—the only word I can use to describe them is "vehicles" because they weren't actual companies—these dummy corporations that were set up, their purpose being to invest in research. The people got tax credits for them, no research was conducted, and finally the federal government just scrapped the whole thing and said it was a scam.

My concern is that that is exactly what can happen in this; that if you're saying, "Labour doesn't have to participate, anybody can," the first thing that's going to happen is that the accountants and lawyers are going to get together and say: "Hey, here's an opportunity for you to shelter some income. Here's an opportunity for you to get some tax breaks. We are going to set up some kind of vehicle, we'll go through all of the motions getting it approved and everything else, but nothing is going to happen with it."

To my mind, the key ingredient is that it's got to have the basic support of labour. They're the ones who are going to have to initiate this thing in the real sense. If it's just going to be sham projects put together by people just to get the tax breaks, we're going to have some problems.

Again, I want to emphasize that I have no criticism at all with this initiative. I just have a concern when I hear that labour's not supporting it. I would suggest that there might be some merit in sitting down and saying to them, "How can we make this thing so that it's attractive and we can get your wholehearted support?" Because it's going to need it. The government is not going to be able to go out there and stimulate this investment; labour's going to have to do it. I think it's very important that that happen.

The Chair: Maybe Mr Evans could make some remarks. I think we had in committee last time, if I remember right, that where the investment was coming from or how much was invested—if you invested \$5,000 what it's worth after eight years, and if people bought Canada savings bonds how much they would have after eight years; that the length of time you stay in here was sort of a credit up front, in order that over the period of time it would be a safe investment and you wouldn't actually lose money. If you don't mind, Mr Evans, I think there was one—

Mr Jim Evans: That was part of the CAW presentation, as I remember it. They had a crossover point where, beyond eight years, it was their belief that the yield from the other traditional instruments would be equal to or possibly better than. But within the eight-year period—and the redemption under the act is a five-year period—then there

was a benefit to the labour-sponsored investment strategy. We have not proofed those tables, but on the surface they do appear to be reasonable.

The Chair: I don't know if that's answered your question, Mr Kwinter.

Mr Kwinter: No. That just highlights my concern that accountants will look at these various programs and say, "If you stay in this thing for five years, you'll get a better return on it from the tax break point of view than you would if you went into a traditional investment instrument." My concern is that this legislation could be used to drive tax breaks as opposed to doing what it's supposed to do, that the whole *raison d'être* of the thing gets totally distorted and the only people who are using it are people who look upon it as a vehicle for getting some tax breaks as opposed to doing what it's supposed to do.

Mr Evans: There's a very challenging design feature that we have to address, and I think it has been addressed in part from your colleague this morning.

If the question of eligibility in terms of sponsorship is broadened and we do not have a basis of experience in operation, then there is a risk that as administrators we are faced with the issues you're describing. One of the benefits of maintaining a relatively narrow base of eligibility is that if there are so-called operators out there who want to create imaginative schemes that are going to have the tax credit as their primary beneficiary, then they are going to have to find a sponsoring group which is an association or federation of cooperatives or labour organizations before they can in fact bring forward that proposal. It is the sponsoring group that has to bring forward the proposal.

The possibility of broadened eligibility does allow for other smaller, relatively ad hoc groups being formed, ostensibly for other purposes but primarily for the purpose of benefiting from the tax credit.

Our desire is to have an administrative structure, at least until we've gained some experience with the administration of the act, which avoids those issues, and the relatively narrow definition does help in that respect.

Mr Stephen Owens (Scarborough Centre): I appreciate the comments of Mr Evans, because I think they provide, along with Mr Kwinter's comments, a perfect counterargument for the expansion of the definition as was requested by the member for Oriole. I would agree with Mr Kwinter that the scientific tax credit scheme was an unmitigated disaster and that little or no research and development was actually carried out, and ultimately the taxpayer was shafted.

However, I don't think there's a basis for comparison between this program and the scientific tax credit fiasco, and I think we've discussed this during the time I've been substituting on this committee. The difference is when people are looking at investing their life savings and weighing: "Will we lose our homes now, will we lose our livelihoods now? Or can we somehow save the plant"—as was done in Kapuskasing and in Sault Ste Marie—"or are we going to let it die?"

1040

In terms of the labour support, I'd like to make an observation: Knowing what we know about the plant in St Catharines and perhaps what may happen in Oshawa and what will happen at the Scarborough van plant, I seriously doubt that, should this legislation become law and the workers at any of the plants I've described decide they want to pursue an employee ownership buyout, the CAW will stand in their way. I have my serious doubts about that.

The OFL has some reasonable concerns with respect to social and labour screens, but I think in terms of the LSIF portion it's up to the administrators of the fund to ensure that these types of principles are held intact. I think that ultimately it's the drivers of the LSIF who should maintain their trade union principles and not invest in businesses that go out of their way—I know Gary Carr is going to have a stroke—to conduct anti-worker or anti-democratic campaigns against their workforce.

I can't see the comparison between the scientific tax credit fiasco as I've described it and this program. I think your concerns provide a perfect counter at this time to the argument that we should expand the definition. We share some of those concerns, and until we have a level of experience to draw from, we're interested in the best deal possible for all parties with the maximum amount of protection that can be afforded under this rather unique investment process.

The Chair: Mr Carr, do you have any comments at this point?

Mr Gary Carr (Oakville South): No.

The Chair: I thought you were working out your income tax for next year if you bought Working Ventures.

Mr Carr: I wish I was. MPP LSIF.

The Chair: Mr Kwinter, any more comments?

Mr Kwinter: Yes. I'm a little unhappy that my comments have been construed as support for not including what we consider to be a reasonable addition to the list of what are considered employee organizations. It would seem to me that if a group of employees or an organization does not fall into the category of a trade union or an association or federation of trade unions or a non-profit corporation or cooperative, it is being excluded arbitrarily, really arbitrarily.

I mean, where does the province of Ontario come off deciding that unless you belong to a trade union or some organization that can be loosely described as falling under that umbrella, you cannot participate in benefits everybody should be entitled if they fall into that general category? It would seem to me that employees of a company that is not organized in a formal way or affiliated in a formal way but have every other qualification in that they are a group of employees, they have the same concerns and the same interest for their jobs, why should they be arbitrarily excluded? It's as simple as that.

It highlights my original concern. Is this an organized labour bill that is being put forward by organized labour and supported by this government? We have the contrary evidence of that, in that the OFL and the CAW—and, as I say, I predict the Canadian Labour Congress, now that Bob

White is going to be the president, will not be actively supporting this, notwithstanding that it may have an internal conflict and that at the federal level it does have a plan. But they will not be actively supporting it.

Why would a group that is in every other way in exactly the same position: the same concern about saving their jobs, the same concern about investing in a fund, doing all of these things—the only thing they haven't got going for them is that they are not formally affiliated in some group that is recognized as a trade union or a cooperative. I don't see why they should be excluded. I don't see any rationale for that.

The Chair: Mr Johnson, didn't you answer that last week?

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Yes, in fact I believe I did answer that. Mr Kwinter keeps revisiting this question. I've answered it once. I out and out disagree with what he says.

The Chair: Maybe you could, because we haven't got Hansard in front of us, revisit last week very quickly.

Mr Johnson: I couldn't quote what I said verbatim, but we have to be clear that when we're talking about LSIFs and LSVCCs they're certainly two different things. Here they're talking about labour-sponsored venture capital corporations and that part of the act that would include them. I think it's clear that we have to limit in some way the organizations that can come together to create these corporations under the act. I think some of the arguments made by the members opposite would lend some credence and necessity to that. I don't think it's exclusionary in any way, except that these organizations announced in the act have that opportunity. I just disagree with what Mr Kwinter says. Of course he'll disagree with what I say, but that's where we're different, I guess.

The Chair: Mr Carr had a quick question.

Mr Carr: I did want to point out and talk about the fact that it's my belief there isn't anything we can do to make this bill better. I look at the government's amendments, and it's an embarrassment that we've brought a bill that has to have this many changes come through. I don't blame a lot of people in the ministries because I suspect what happened is that they were told to put something together. They get their instructions; they get changed minute by minute.

My basic feeling is what the CFIB said on page 2 of its brief:

"Our analysis of the program shows that the program is not an appropriate vehicle for encouraging modernization, growth and restructuring in small and medium-sized Ontario companies. It also shows that Ontario taxpayers, including the small business community, will not get good value for their hard-earned tax dollars from this program. A better use of \$250 million, which would accomplish the above-noted objective of the program, is to exempt the \$400,000 of payroll from the purview of the employer health tax."

That's why I'm going to be voting against all the amendments, because I believe there isn't anything we can do to change this bill. I'll be very brief in all my comments because I think it's an absolute waste of time.

The Chair: I'm going to make one comment here. A lot of the changes in there were changes in about four or five different clauses; like when you change your name you've got to change your licence, your social security and everything else. A lot of them are just small technical changes, not changing the scope of the bill, though.

Mr Carr: Yes, and that's my feeling. It doesn't change the scope of the bill. What you had is people coming before you, small and medium-sized businesses, saying, "This is what you should do." Typically, the government is saying, "No, we know better than you do in spite of the fact that you've been in business, that you're represented by these people." We're not talking about the big Fords and the big GMs. We're talking about small businesses of five to 10 people that are saying: "You're wrong. This isn't what the problems are." But typical of this government, it just pushes it through.

Quite frankly, it's a waste of time. The only thing I hope is that this thing was generated by the government and not by the bureaucrats who put it together, because it will do nothing to help businesses. I'll be voting against every amendment that comes through.

The Chair: You must be a member of the CAW then.

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Mr Owens: I have a couple of comments on Mr Carr's observations. Mr Chair, I'm glad you used your fine wisdom to clarify some of the amendments; that in fact we only had three policy changes. The rest were consequential amendments, as you quite accurately pointed out.

In terms of the issue with respect to non-union people being able to access the employee ownership section of this bill, I thought it was very clear this morning. I thought Mr Evans clarified it one more time with feeling. I thought I had spoken quite clearly that these people are eligible in terms of the employee ownership portion of this bill, so we are not excluding people in terms of their ability to access this legislation, if their plant or their office, or whatever their business is involved with, is experiencing difficulty.

In terms of non-union people investing in LSIFs, it's my guess, and I'll ask Mr Evans to either confirm or deny my guess, that if a person wants to invest through a local union, that is possible, so it's not simply restricted to labour groups in terms of the investment portion.

Mr Evans: When I made my initial presentation to this committee as to the objectives of the bill, they were described as to expand the current capital markets; to provide business access to new sources of capital to help them grow and adapt to new technologies and the increasing globalization of the market; to initiate partnerships committed to the development of innovative programs to help Ontario meet the economic challenges of the 1990s; to encourage individuals to invest in Ontario's businesses and facilitate employee growth; to provide labour with a greater opportunity for participation in the decision-making process, and to develop new partnerships between business, labour and government to help Ontario increase productivity, improve labour-management relations and set the groundwork for sustained prosperity and remaining competitive.

In that respect, the role of any labour-sponsored organization establishing an investment fund is in fact a vehicle. I do not think in the context of this bill that a labour-sponsored group, of itself, is intended to be a beneficiary. They're a vehicle whereby everybody gets the opportunity to participate and invest. Those are on the labour-sponsored investment side.

On the employee ownership side, it is quite clear within the bill that any group of employees can be formed for the purpose of taking over or gaining control of its company.

Mr Kwinter: My concern is that the implication is that it isn't labour in the broad sense; it's organized labour. If you're not organized, you're not considered labour. If I was a cynic, and you obviously know I'm not a cynic, I would say this is a wonderful way to encourage people to get organized into unions. If they want to become recognized as a labour organization or as an employee organization, the answer is very simple: Go out and get affiliated. Get yourself accredited as a union and then you can be an employee organization under the act. This is a wonderful opportunity for us to get more people into the union movement. That's if I was a cynic.

All I'm suggesting to you is that when we talk about a labour-sponsored vehicle, if there is a recognized group of employees—and we have suggested in our amendment an association of employees, a group that wants to be considered an employee organization under the act—the act, as it now stands, precludes that from happening. Yes, they can participate in an employee buyout. Yes, they can participate as individuals in investing in a labour-sponsored investment fund, but they cannot initiate one on their own as an employee organization unless they are affiliated or a trade union. That is my concern.

My concern is, why should these people be disadvantaged from doing what anyone else who is in a labour group can do by the mere fact that they are not members of an organized union? They may be a group of employees. It could happen, let's say, that Dofasco, which is non-unionized, would want to get together an employee organization. They can't because they are not a union and they're not affiliated and they're not a co-op. The only way they can do it is to get themselves unionized.

I think that is unreasonable, I think it's draconian and I think there should be a provision that any employee association, whether it has the title that it is a trade union or not, if it is an association of employees, bona fide, representing the employees of a particular company, should have the same rights and privileges as any other employee. I'm not talking about what I talked about earlier, a group of investors on Bay Street who are not employees and who put together a shell company. I'm talking about a bona fide company that just doesn't happen to be unionized but has the same aspirations, goals and requirements as anyone else in Ontario. Why should they be excluded?

The Chair: Mr Evans, perhaps you don't mind commenting on that.

Mr Evans: Very briefly, as pointed out earlier, in terms of parallel legislation in other jurisdictions, this

whole issue is untested. Such a group, if it approached an existing association or federation as described by the act to gain sponsorship, could conceivably form such a group, but the sponsor would have to be organized labour. If the act were broadened, based on our experience at the present time, then they would not be treated equitably because the federal government would likely deny the 20% credit from the feds. That is merely from our experience with trying to get the matching 20% federal credit in relation to the EO side, where we have been turned down. That is the framework of the practical experience we have.

Mr Owens: I just want to finish up the comments I made earlier in terms of the remarks made by Mr Carr with respect to the government not listening etc.

I recall that one of the presenters last week—was it last week that the Canadian Federation of Independent Business came in, or about two weeks ago? I recall looking at their chart. I understand that something like 80% of the respondents to their survey said that regulation and taxes were their highest concern. When one examines that particular survey, one discovers that first of all these folks are established businesses, so yes, they would have moved on from the initial stage. But as you look down the chart a little bit further you'll note 23% saying they have had difficulties in obtaining capital. That's fully one quarter of the respondents to the survey who have indicated that they are having difficulty obtaining capital of some sort.

I can tell you that in my riding, when I go out and speak to small businesses, whether they're established or whether they're looking to start or expand or simply stay alive, the biggest problem they have is obtaining money. This bill, whether it's through the EO option or the LSIF, is going to assist small business in this challenge of obtaining money. We in fact are listening to the businesses out there.

I think one has to look fairly closely at some of the studies and statistics coming forward and certainly conduct more than a superficial analysis which is used to simply accuse the government of not listening. That's simply not true. I think one has to look at the subtleties of surveys like that. I suggest that 23% of those surveyed responding that they have had difficulty in obtaining capital is fairly significant. It may be a smaller number than the 80%, but it's still a significant number. This bill, this piece of legislation is clearly a beginning to allow businesses to access pools of capital. It's an opportunity to allow workers to fully participate in the businesses they are employed by. That's the intent and that's the spirit of the bill, and I think we clearly have listened to the parties who are involved in this process.

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Mr Kwinter: I just want to make a comment. I think there is a misconception on that business survey. When you talk to the small businessmen, and I speak to them all the time, there is no question that they have a problem. They don't have a problem with getting capital in the sense that we're talking about this venture capital fund. They're having trouble with their banks. They're having trouble going in to their bankers and saying: "Look, I don't have any collateral for you. I'm in a tough situation. Business is bad, I've got debts and I need a greater line of credit."

The bank is saying, "We can't give you any more credit because you're at the end. You've stretched your credit-worthiness." I don't see that this particular project, this bill, is aimed at providing funds for people who are having difficulties at their banks.

I was up in Sault Ste Marie a couple of days ago and I was meeting with a guy who tells me he can't sleep at night because he owes the bank about \$8 million and he doesn't know how he is going to resolve that. This is not going to help him. I don't care what happens; if the advisory committee or anyone else looks at it, they are going to say, "That is not our role to put money into a situation that is not economically viable." One of the criteria is that it's got to have some prospect of being viable.

When you talk to the small businessmen, there are hardly any who don't say the banks are being very tough right now and are giving them very little leeway. They are not giving them enough capital so that they can function on a day-to-day basis.

On the other hand, if you take a look at the representations of the Ontario Federation of Labour, if you take a look at some of the other people, they say there is no evidence there is a shortage of venture capital, that if anything, it's the opposite, that there is a shortage of worthy projects in which to put venture capital, so I don't think you can relate one to the other.

When you talk about the list of where it is on that survey, that is a different issue. It's a banking issue. Again, I'm saying to you that any five businessmen whom you talk to who are in a small business will tell you the same story: Given their inventory, given their accounts receivable, given all these things, they are stretched and they are having difficulty getting capital to keep working. But that is not going to be solved by this project because the criteria will not allow these funds to be used in this way.

Mr Owens: The traditional sources of venture capital are just not available at this point. We had a person in on the standing committee on government agencies whom we were looking at for the Ontario Development Corp, and we had a good conversation around not only venture capital but pre-venture capital in terms of developing the plan or developing the business.

This is a good bill to address startup, and as Mr Evans just read to us, the intent of the legislation is to provide growth. It's not simply a bailout process. It's not simply writing cheques to keep failing businesses in some sort of health. The bill is designed to promote growth, it's designed to encourage employee participation, it's designed to allow the business people a greater pool of capital in which to access funds. I disagree strongly that people, in terms of the venture capital, do not find that an issue in terms of accessing to start their business. I disagree with that strongly.

Mr Gerry Phillips (Scarborough-Agincourt): Can I ask a question and then follow up with a comment? On the definition of employee organization, I assume that teachers' organizations would fall under that definition—a trade union.

Mr Evans: I'm not familiar with whether the teachers' organizations are an association or federation of labour-sponsored organizations.

Mr Phillips: Can someone answer the question for me?

Mr Gerald Sholtack: No, they're not.

Mr Phillips: They're not? This makes my point that I'm getting very angry about, which is that originally I was told that the reason why the definition wouldn't be expanded was because of the federal tax credit. That doesn't make any sense to me. Now co-ops don't have access to the federal tax credit, but they're going to be included. So you've violated that principle, and that's fine; we're supportive of the co-ops. I don't know whether they're here or not, but we're very much supportive of them. But we would argue, as we do in our motion, that you've already agreed that it isn't just the tax credit that sets the criteria here. Why in the world you won't agree to any other association of employees—

I can very easily see the teachers' organizations wanting to participate in this. The OFL has already said: "Listen, we don't want to. Count us out of this. We're not going to participate in the venture capital." So who is going to run this? The Canadian Federation of Labour said it would, and that's great, but the OFL probably have three or four times as many members here and it said it's not going to.

Why in the world the government won't accept our amendment is beyond me. As I say, I can see the Ontario Teachers' Federation saying: "Listen, this is something we want to participate in. Why aren't we eligible?"

Mr Owens: I'd ask for a clarification on whether or not the Ontario Secondary School Teachers' Federation or the other teachers' associations are in fact eligible.

Mr Phillips: Fine, but why won't you just accept the amendment? I thought there was agreement here four weeks ago that you were going to bring forward the Saskatchewan model.

Mr Owens: No. As I pointed out to you in the Hansard of a number of weeks ago, and I believe the page was F42 in the Hansard of the day, I clearly indicated that the Saskatchewan model was not the model that was going to be introduced. If we could find the Hansard for that particular day, I'll point it out to you one more time.

Mr Phillips: This is totally ridiculous why we would not accept that model. It doesn't make any sense at all to me. The Premier has said this is one of his big economic planks, and the big player that can run it says it doesn't want to participate in it. Why not give other employee groups a chance?

Mr Sutherland: I think, Mr Phillips, yourself and your colleagues have certainly made your points as to what you see as criticisms of the legislation that is there. I think we've had a great deal of—

Mr Phillips: Give me the reason the government doesn't want to do it.

Mr Sutherland: Wait a minute. We've had a great deal of explanations. We've had staff explanations, we've asked the minister—

Mr Phillips: What is the explanation? Will somebody tell me why they won't?

Mr Sutherland: Do you want one more clarification?

Mr Phillips: Yes, I do.

Mr Evans: On the point of eligibility, I think the point was made that the cooperatives do not qualify for the federal matching credit. That is not a point we know at the present time. That is being clarified with the federal officials. By virtue of the similarity between the present definition and the amended, there is a possibility the co-ops will receive a matching credit, and we expect to have that advice from the federal government very shortly.

Beyond that, using again our employee ownership model, we know other employee associations definitely will not attract the federal credit.

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Mr Phillips: Say that again. You have asked the federal government whether the Saskatchewan model would qualify for—

Mr Evans: We have sought clarification from the federal government as to whether the amendment that has been introduced by this government to the bill would qualify for the 20% matching credits on the grounds of its similarity with the existing bill which they had reviewed and had agreed they would administer and would match on the labour-sponsored investment fund.

We know from our own direct negotiation with the federal government on the employee ownership side that it does not accept that broader definition. So as to where the boundary is, our belief at the present time is that the boundary may include both working co-ops and the association or federation of labour-sponsored organizations as both receiving 20% matching credits. We expect to have confirmation of that within a short period of time.

Mr Phillips: Have you asked the question whether the Saskatchewan model would qualify?

Mr Evans: We have not. The only people who could answer that would be the treasury officials who've been negotiating directly.

Mr Phillips: I'm getting the runaround here.

The Chair: Do we have anyone from treasury? Could you please come forward to a mike. Do you have the answer in this particular question of Mr Phillips?

Ms Diana Wright: Would you repeat the question, please?

The Chair: Could you please identify yourself, also, for Hansard.

Ms Wright: My name is Diana Wright from treasury.

Mr Phillips: The question is, has the government asked the federal government whether the Saskatchewan model would qualify for matching tax grants or not?

Ms Wright: Maybe I'm not the best one from treasury to—I wasn't involved in the earlier discussions. I came on fairly late. Can we get back—

Mr Sutherland: If I can just make a process suggestion, we've had the minister back in again this morning. We've been running back and forth. Maybe we could ask treasury to provide us with a clarification or to try to find out whether it did ask about the Saskatchewan model.

In the meantime, my concern is that I'd like to know when we're going to maybe move on and start getting into

actual clause-by-clause vote. If it's a question of that actual issue being resolved and we need to come back to that issue, fine, once we get a clarification as to whether we have asked that specific question that Mr Phillips raises, but I do think we have discussed a lot of the other issues around and around, both during presentation time and during other times last week as well, when we had staff back in. I would think that we should be looking at moving into our voting process pretty soon.

The Chair: I don't know whether Mr Phillips has got an answer there as yet.

Mr Phillips: I think we're putting the bureaucracy in a totally untenable position.

The Chair: Can I get a question from Mr Carr while we're waiting for Mr Phillips's answer?

Mr Carr: I'll be very brief because, like Kimble said, I'd like to move on. I appreciate Mr Owens's and Mr Evans's comments and their intentions. You have good intentions to help small and medium business, as does Mr Evans, as does Mr Kwinter. The only point I want to make is what the chamber said: "Unfortunately, we do not believe that the proposed legislation moves us forward on these very legitimate objectives." What I'm saying is that the Canadian Federation of Independent Business said the program is not an appropriate vehicle.

You have very good intentions, as Mr Evans's intentions were. All of us here want to help small and medium-sized businesses. What I'm saying—it'll be the last point and then I'll let us get into clause-by-clause—is you have good intentions, but the CFIB, which represents—and they've listed in here the people saying you're not going to achieve that objective. The Ontario Chamber of Commerce, which represents 88,000 small businesses, says that you're not going to achieve your objectives.

So the bottom line is, in spite of the good intentions of all of us in the room, we are not going to achieve our objective. I'm saying to the people of this province: Don't listen to me, don't listen to Mr Owens, don't listen to Mr Evans; listen to the people who are involved, who are saying it will not work.

I'm prepared now to go on to clause-by-clause and I'll save all the rest of my debates to when we get into the House. That's all I'm saying.

The Chair: Mr Whitehead, are you able to answer Mr Phillips's question at this time, or would you like to get back to the committee?

Mr John Whitehead: If I understand the question correctly, it is, did we ask the federal government if, were we to have a definition similar to Saskatchewan's, it would match it and prescribe it. Is that an accurate rendition?

Mr Phillips: That's correct.

Mr Whitehead: We've approached the federal government on this program a couple of different times, early in the design stages and specifically again on the employee ownership side. They've been quite solid thus far—if they're going to be involved in administering the program and matching it, they want us to be as close to their model as possible.

With respect to the specific question asked, the answer is no, we didn't ask that for the time being. We didn't ask that because the government had a view that extending it to worker cooperatives would be an appropriate action on the basis of worker cooperatives being similar to trade unions in many respects. As Mr Evans has pointed out several times this morning, this is a new program for Ontario. There's no experience rating on the other kinds of employee organizations across the country, as far as we know. We felt it would be prudent to stay with a beginning point which was tried and known.

That's not to say that something couldn't happen at another time, but I must say that in talking with the federal government—and we don't yet have an official answer on whether it'll even parallel our worker cooperative amendment—the feeling I have from the federal government is, it's starting to look hard at the other provincial acts as well. Seeing a variety of different kinds of definitions growing out of different provincial acts, I think the federal government is starting to reassess its own position there.

Mr Phillips: If I might comment on that: The reason I'm getting very frustrated is, we went to the briefing, we asked, "Why aren't co-ops in here?" and we were told: "It's because we can't get the federal matching tax credit. We're only including ones in here that we can get the federal matching tax credit." I said, "I don't agree with that, but I understand that."

Then, several weeks later, a co-op movement comes in and says—and I support the co-op movement, but now I say, if that's the case, we don't have any assurance of it, why don't we include any other employee, as the Saskatchewan model does? So it's the inconsistency of the message. I say the civil servants are being put in an intolerable position here because I know what—

Mr Sutherland: Sorry, Mr Phillips. But in terms of the explanations that have been given this morning, that inconsistency is not likely to exist.

Mr Phillips: Have you asked the federal government whether it will?

Mr Sutherland: No. If I heard correctly, Mr Evans indicated that the federal government has now given some indications that the worker co-ops and the association of co-ops may be eligible for that tax grant.

Mr Phillips: So you've asked the question, yes.

Mr Sutherland: That was my sense of what Mr Evans had said this morning.

Mr Phillips: But I said, why not ask the question the other way?

Mr Sutherland: So that makes it consistent with the others. However, at the same time they have indicated here this morning that the federal government has given them the indication that it's not moving in other areas in terms of broadening it up.

Mr Phillips: Is that the case, what he just said?

Mr Whitehead: The federal government hasn't announced any formal review or anything, but my understanding from federal colleagues is that in fact it is looking at all the provincial acts at this point to determine exactly

how wide these things are and the appropriateness of its matching them.

Mr Phillips: I'd like to see that in writing, then.

The Chair: Okay, fine.

Mr Kwinter: Can I get a clarification? Has anyone gone to the trouble of asking the Saskatchewan government whether its employee organization definition is acceptable to the federal government?

Ms Wright: Officially they're in the Income Tax Act as being prescribed to receive matching federal credits. There have been no employee organizations as defined set up, and I understand that administratively the Saskatchewan government is reluctant to actually prescribe any employee groups that match its definition right now. So there are no foreseeable employee groups that will be taking advantage of that particular definition at this point.

The Vice-Chair: Mr Owens.

Mr Kwinter: I'm not finished.

The Vice-Chair: All right. One more and then we'll go to Mr Owens.

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Mr Kwinter: My question is to the government members. Is your objection to including the definition of other employee groups because they are not members of organized labour, or is the objection to the fact that they will not be eligible for matching federal participation? Can anyone answer that?

The Vice-Chair: I can give you my comments, but I don't think it's appropriate, being in the chair right now.

Mr Johnson: I would think it was the latter comment you made.

Mr Kwinter: If we can get verification that in Saskatchewan, even though the government hasn't encouraged any one, or no one has come forward in that category, they have an understanding or they have a ruling from the federal government—and it would seem to me that they would have—I can't imagine that they would have all these definitions of employee organizations and one of them would not be subject to the same availability of matching funds as all the others. I just assume that's the case. If we can get assurance of that, would there be any objection to including it?

Mr Johnson: Personally, I would like to check with the minister directly. I don't know that that presents any great problem, but I don't know what the results of the investigation are going to show, whether they're going to show specifically yes or no if there's going to be some other implications that aren't immediately evident until we hear from the federal government.

Mr Owens: I don't want to get into a debate with Mr Carr over the issue, but in terms of his reliance on the Ontario chamber's presentation as a source for quotations, I find that interesting. It's my recollection that presentation was technically flawed and that in fact Mr Evans, out of consideration for time and courtesy, requested that he work with the presenter outside to correct some of the inaccurate information that was contained in that presentation. We're talking about technical information as opposed to a philosophical

difference, so in terms of relying on that particular presentation as a way to turn your argument that this bill is going to be non-functional, I'm not sure that's absolutely effective at all.

The Vice-Chair: Mr Wiseman.

Mr Jim Wiseman (Durham West): No questions.

The Vice-Chair: If there are no other comments at this time, I guess maybe what we can do, or hopefully do, is start the process of going through some clause-by-clause here. I believe the package we were dealing with is the one that was distributed this morning.

I just want to get a sense as to how we want to proceed on the clause-by-clause. My understanding is that there are some substantive amendments, and then some of the other amendments are wording changes throughout as a result of those substantive ones. I guess if we make changes to some of them, we may have to go back and make changes to the others.

Let's maybe then just start. I guess we need to go through this process. Officially, we will need to have the amendments read into the record. We could go through each one and then have a vote on it, and if somewhere along the line there should be a change and we need to come back and make a wording change, we'll have to do that. But we'll rely on the folks at hand to get that done. I think we're ready to go into clause-by-clause voting.

Section 1:

The Chair: Mr Johnson, the first amendment, subsection 1(1).

Mr Johnson: You'd like me to read it into the record now?

The Chair: Into the record, please.

Mr Johnson moves that subsection 1(1) of the bill be amended

“(a) by striking out the definition of ‘employee group’; and

“(b) by adding the following definitions:

“‘commission,’ ‘director,’ ‘material fact,’ ‘misrepresentation’ and ‘reporting issuer’ have the meanings specified in the Securities Act;

“‘disclosure document’ means a document that contains prescribed material relating to a specified employee ownership corporation;

“‘distribution’ has the meaning specified in the Securities Act and ‘distribute,’ ‘distributed’ and ‘distributing’ have corresponding meanings;

“‘specified employee ownership corporation’ means a corporation that has notified the minister under subsection 4(2) of its intention to apply for registration as an employee ownership labour sponsored venture capital corporation;

“‘trade’ or ‘trading’ includes the meaning specified in the Securities Act.”

The Chair: Would you give an explanation of the amendment?

Mr Johnson: Yes, Mr Chair. The amendments are consequential upon the proposed amendments to sections 4 and 5, which eliminate the concept of a certified employee

group in part II, and add definitions required for the proposed amendments relating to investor protection.

The Chair: Any comment or debate? Is the committee ready for a vote? All those in favour? Opposed?

Motion agreed to.

The Chair: Mr Johnson moves that subsection 1(1) of the bill be amended by adding the following definition:

“‘worker cooperative’ has the same meaning as in the Co-operative Corporations Act.”

Mr Johnson: An explanatory note: The amendment adds the definition of a “worker cooperative” for the purposes of the proposed amendment to the definition of “employee organization.”

The Chair: Any comments or debate? The committee is ready for a vote? All in favour? All opposed?

Motion agreed to.

The Chair: Mr Phillips moves that the definition of “employee organization” in subsection 1(1) of the bill be struck out and the following substituted:

“‘employee organization’ means,

“(a) a trade union;

“(b) an association or federation of trade unions;

“(c) a non-profit corporation all of whose shareholders are employees of the same employer;

“(d) a cooperative incorporated pursuant to the Co-operative Corporations Act, that has as one of its principal objects, as stated in its articles of incorporation, the investment of its equity capital in accordance with the act, and all of whose members are employees of the same employer; or

“(e) any other association of employees or class of association of employees that is prescribed in the regulations.”

Mr Phillips: By way of explanation, this is the model that's used in Saskatchewan. It would permit a much broader number of employees in this province to participate and would overcome what I think's going to be a fundamental flaw in the bill as it's currently developed by the government, and that is that most of the employee organizations that can participate under the government's act don't want to.

This would broaden it. Also, it would ensure that the teachers are eligible. I haven't yet heard whether the teachers are regarded under the current act as eligible, but this would make certain that they were.

The Chair: Any comments or debate?

Mr Carr: My feeling is that if groups are going to turn the government down in terms of participation, we should let as many as want to be eligible to turn them down. This would do that, broaden it, clarify it. So this I will support.

The Chair: Any other comments or debate? Is the committee ready for the vote? All in favour of the motion? We have three. Opposed?

Motion negatived.

1130

The Chair: Mr Johnson moves that the definition of “employee organization” in subsection 1(1) of the bill be struck out and the following substituted:

“‘Employee organization’ means,

“(a) a trade union,

“(b) an association or federation of trade unions, or

“(c) an association or federation of worker cooperatives.”

Mr Johnson: Explanatory note: The amendment expands the list of organizations that may sponsor a labour-sponsored investment fund corporation to include an association or federation of worker cooperatives.

The Chair: Comments or debate.

Mr Carr: Obviously the government has said all along that its intention was to expand the number of groups. This certainly will not do it. Their definition leaves out some of the groups. It obviously relates to the last one, which would have included the other ones. My feeling is if you're not going to include as many groups as possible, I cannot support the government motion and will be voting against it.

The Chair: Any more comments or debate?

Mr Phillips: Can we have a clarification on the teacher situation?

Mr Sutherland: It would appear we can't get that clarification for you right now.

The Chair: Is anyone making any telephone calls from the ministry to—

Mr Phillips: I'm not.

The Chair: No, I'm talking about staff here.

Mr Sutherland: I thought Mr Johnson had indicated earlier that we were working on getting a more definite statement on it, if possible.

Mr Phillips: Tried to get hold of Jim Head but he's in a meeting.

The Chair: Maybe we could have an answer at 3:30 this afternoon. We'll try for that.

Mr Sutherland: In terms of the definition issue and employee organizations, I know the opposition has concerns. They think it should be expanded right now. We've tried to make the case as to what some of the concerns and some of the issues are. I don't think that rules out the possibility that once the program is up and operational and they've had some experience in terms of dealing with these, some practical experience in how things work out, at a later date the definition may be broadened.

I think certainly some would say, “Well, why don't you start it out?” But remember, this is a bit of a new area that we're going into and may be we should start out and get some of the bugs worked out of it from practical application. Then I would think that at some point that will obviously be one of the key issues, that any review of the legislation that would take place would deal with that issue, once they had seen how it works in the current state.

Mr Carr: But let's be fair. If we were going to do that, we would do that now. Let's not hold a carrot out and say that somewhere down the road it may be changed if things work out. I know it isn't your intention to try to be unfair on that, but let's be upfront with people. Let's say you don't want them included, for whatever reason, but let's not hold a carrot and stick out and say it might be

somewhere down the road. If you're going to do it, it should be included now. If you're not, then don't do it. But let's not hold out a little bit of a carrot and say, “Well, maybe we will change it and broaden it.”

My suggestion on this particular one is that if Mr Phillips has some concerns and needs a clarification, we maybe stand this one down and come back to it after we get some clarification. Certainly I can respect that for whatever reasons you're going to make a change and not include whatever groups, but let's not lead these groups to believe it will be broadened at a later date, because obviously if you were intending to do it you would do it now.

Mr Sutherland: Mr Carr has suggested that we stand this one down for the time being. If we can get some more clarification for this afternoon, and that's agreeable to Mr Phillips, then I think that's a reasonable request.

The Chair: How does the committee feel about this one being put off until this afternoon? Agreed? Okay. You agree with Mr Carr on that one.

Mr Johnson moves that section 1 of the bill be amended by adding the following subsections:

“Specified employee ownership corporation

“(8) A corporation ceases to be a specified employee-ownership corporation if one of the following occurs:

“1. The corporation withdraws its notification given to the minister under subsection 4(2).

“2. The corporation is refused registration under part II and the refusal is confirmed under section 31.

“3. The registration of the corporation is revoked and the revocation is confirmed under section 31.

“4. A cease trade order has been issued against the corporation, but this paragraph does not apply if the cease trade order has expired or been rescinded.

“5. A receiver, receiver-manager, trustee, liquidator or other person acting in the similar capacity is appointed to assume possession or control of all or a substantial portion of the property and assets of the corporation.

“Idem, application of Securities Act

“(9) Except as specified in this act and the regulations, or either of them, a class A share and any other share of a prescribed class of a specified employer ownership corporation shall be deemed not to be a security for the purposes of the Securities Act until such time as the specified employee ownership corporation becomes a reporting issuer within the meaning of that act.”

Mr Johnson: An explanatory note: The amendments provide technical rules for when a corporation shall cease to be a specified employee ownership corporation. Under this and other related amendments, corporations which propose to register as employee ownership labour-sponsored venture capital corporations will be defined as specified employee ownership corporations. Such corporations, both before registration and while registered as employee ownership labour-sponsored venture capital corporations, will be subject to a separate securities code to be made by regulation under Bill 150 and will not be subject to the Securities Act.

The Chair: Comments or debate?

Mr Phillips: Have we checked out the Steelworkers' concern about opening ourselves and opening the employees

up to countervail actions by the minister signing these documents?

Mr Johnson: I think it was clear that we have. In fact, we've given that answer already in this committee, but just to revisit that, if it's an order in council that applies broadly to organizations within Ontario, then it would seem highly unlikely that there would be any concern, especially from the Americans, and that was their concern.

But let's be frank and say that we know too that the United States, whenever it sees any kind of problem with regard to advantages given to—I'm speaking of course of Ontario now—Ontario corporations, it's very likely that under many circumstances, they may take issue with this. We think that this application is broad enough that it shouldn't be seen to be as negative as you might suggest—at least, if not you, certainly the American government.

Mr Phillips: Have we looked at Mr Gerard's suggestion and said, "No we don't want to follow that"?

Mr Johnson: Could you be more specific?

Mr Phillips: He was saying that rather than having the process that's prescribed in the bill, he recommended a different process that didn't lead to ministerial signing of the business plan. But you've looked at that and decided that you don't want to bring forward that amendment.

Mr Johnson: That's right.

The Chair: Any further comments or debate? The committee's ready for a vote. All in favour of the motion? Opposed?

Motion agreed to.

1140

The Chair: Maybe what we can do is we can pass sections 2 and 3, as we're coming back to revisit section 1 this afternoon, subsection 1(1).

Mr Sutherland: Just as a point of process, there are no amendments proposed to sections 2 and 3 but there are amendments coming forward; there may be other ones. Do we want to wait to pass those sections in case there's any possibility of potential wording changes in those specific sections as a result of any other amendments that may come forward that are changed?

Mr Phillips: What other amendments?

Mr Sutherland: I mean, there are some proposed amendments here. I don't know if all the amendments here have any impact on any other wording changes later on in any other sections.

The Chair: On the wording changes, other amendments will automatically change 2 and 3.

Mr Sutherland: All right, that's fine. Thank you.

The Chair: Do we carry sections 2 and 3? All in favour? Against?

Sections 2 and 3 agreed to.

Section 4:

The Chair: We move on to section 4.

Mr Johnson moves that section 4 of the bill be struck out and the following substituted:

"Definition, 'board'

"4(1) In this section, 'board' means the Ontario Labour Relations Board.

"Intention to apply for registration

"(2) A corporation that intends to apply for registration as an employee ownership labour sponsored venture capital corporation shall notify the minister of its intention before making the application.

"Action by minister

"(3) After receipt of a notice under subsection (2), the minister shall direct the board to conduct a vote of the eligible employees of the business in which the proposed applicant corporation intends to invest.

"Condition

"(4) The minister shall not direct the board to conduct a vote in respect of a proposed applicant corporation until the minister is satisfied,

"(a) that the proposed investment has been reviewed by the Employee Ownership Advisory Board;

"(b) that the eligible employees entitled to vote have been provided with a disclosure document; and

"(c) that the eligible employees have been provided with advice relating to the proposed investment by an independent adviser.

"Questions

"(5) The vote shall be conducted to answer the following questions or any prescribed alternative questions and to answer any prescribed additional questions:

"1. Do you support the application for registration of the corporation as an employee ownership labour sponsored venture capital corporation under the Labour Sponsored Venture Capital Corporations Act, 1992?

"2. Do you support the proposed investment in the corporation for the purpose of reinvestment in your employer as outlined in the business, human resources and investment plans to be filed under the Labour Sponsored Venture Capital Corporations Act, 1992?

"Voters re some of eligible business activities

"(6) If the proposed investment in the proposed applicant corporation is in respect of only some of the eligible business activities of the employer, no employee may vote unless the employee is an eligible employee employed in carrying on one or more of those activities.

"Questions

"(7) If a question arises at any time as to whether a person is an eligible employee or is employed in carrying on some of the eligible business activities of the eligible business, the question may be referred to the board and the decision of the board is final and conclusive for all purposes.

"Procedure

"(8) Votes conducted by and proceedings before the board under this section shall be in accordance with its rules, practice and forms, and, for the purpose, sections 104, 105, 108, 110 and 111 of the Labour Relations Act apply with necessary modifications.

"Results

"(9) The board shall provide the minister and the eligible employees with the results of the vote taken under this section."

Mr Johnson: Explanatory note: The new section 4 provides that the eligible employees of the eligible business

will have the right to formally vote at a vote to be conducted by the Ontario Labour Relations Board on whether or not to proceed under the act with the proposed investment in the eligible business through an employee ownership labour-sponsored venture capital corporation. The certification of employee groups has been eliminated as no longer administratively necessary.

Other proposed amendments will remove references in other sections of the bill to the employee group.

The Chair: Comments or debate? Mr Phillips.

Mr Phillips: Help me along a little bit in the explanation. Who was going to conduct the vote before this amendment? The same—

Mr Johnson: Counsel tells me that it wasn't provided in the act. It wasn't a formal vote before and now this allows for that to happen.

Mr Phillips: Is this something the Ontario Labour Relations Board normally would do? I know they do it in the collective bargaining process—

The Chair: Please identify yourself for the purposes of Hansard.

Ms Catherine Macnaughton: My name is Catherine Macnaughton, legal services at Revenue. Could you repeat the question please, Mr Phillips?

Mr Phillips: Yes. Is this an action the labour relations board is normally involved in in dealing with non-unionized employee groups?

Ms Macnaughton: It's my understanding not, but that they offer their assistance in ensuring the vote would be done on an independent basis; it would be carefully monitored to ensure that the employees were not in any way coerced into cooperating with the plan, that it would be a secret vote and the other assorted rules that apply for trade union votes would apply.

Mr Phillips: The other problem we have with this is the fundamental concern we have with the Employee Ownership Advisory Board certifying that this is—I think the words are “economically viable,” or words to that effect. I think the Steelworkers made a reasonable point. We have some real concerns about the implications for legal redress and moral redress, as the employee advisory board, as I say, puts its stamp of approval on it.

The reason I mention that is because it's mentioned here. I know it's only a subissue on this particular one, but I once again register our concern about where it's going. The government, I think, has acknowledged it is going to accept our amendment, but that probably still doesn't go nearly far enough. Who was it just the other day who was suing government because they felt they weren't properly advised? I can't remember. Those are my comments on it.

The Chair: Any other comments or debate? The committee is ready for a vote.

All in favour of the motion? Opposed?

Motion agreed to.

Section 5:

The Chair: The next amendment is subsection 5(1).

Mr Johnson moves that subsection 5(1) of the bill be struck out and the following substituted:

“Application for registration of corporation

“(1) A corporation may apply for registration as an employee ownership labour sponsored venture capital corporation under this part if, on the vote conducted under section 4, at least 50 per cent of the votes cast were in support of the application and proposed investment.”

Mr Johnson: Explanatory note: The amendment to subsection 5(1) is consequential on the elimination of certified employee groups by proposed amendments to section 4.

The Chair: Comments or debate? The committee is ready to vote.

All in favour of the motion? Opposed?

Motion agreed to.

The Chair: Shall subsections 5(2) through 5(5) carry? Carried.

Mr Johnson moves that clause 5(4)(b) of the bill be amended by striking out “or the employee group” in the sixth and seventh lines.

Mr Johnson: Explanatory note: The amendment is consequential upon amendments to section 4 which eliminate the concept of certified employee group.

The Chair: Comments or debate?

Mr Phillips: What you just said, what does that mean?

1150

Mr Johnson: What does what mean, Mr Phillips?

Mr Phillips: What you just said.

Mr Johnson: I said quite a bit. I moved that clause 5(4)(b)—

Mr Phillips: I understand all that.

Mr Johnson: You mean the explanatory note?

Mr Phillips: Yes. What does it mean?

Ms Macnaughton: All we're doing is removing the reference to the employee group from that provision. The section will read the same as it did in the bill at first reading, but there was a reference in it to the employee group.

Originally, under section 4 in the bill that had first reading the Minister of Revenue would certify an employee group to represent the employees in forming an employee ownership labour-sponsored venture capital corporation. That's gone now that the formal voting provision is in there in section 4, so there are consequential amendments throughout the bill to remove references to the “employee group.”

Mr Phillips: Okay. Thank you.

Section 5, as amended, agreed to.

Section 6:

The Chair: Mr Johnson moves that clause 6(1)(a) of the bill be amended by striking out “the Securities Act” in the sixth line.

Mr Johnson: Explanatory note: The amendment removes the requirement that employee ownership labour-sponsored venture capital corporations comply with the Securities Act and is consequential upon the proposed investor protection amendments which would permit the

establishment, by regulation, under this act of a securities code tailored to the circumstances applicable to employee ownership labour-sponsored venture capital corporations.

The Chair: The committee's ready for the vote. All in favour of the motion? Opposed?

Motion agreed to.

The Chair: Mr Johnson moves that paragraphs 1 and 2 of sub-subclause 6(1)(e)(i)(D) of the bill be struck out and the following substituted:

"1. The holder of the share receives an amount on the redemption that does not exceed the amount that would otherwise have been payable on the redemption less an amount equal to the tax credit percentage of the lesser of,

"(i) the amount of equity capital received by the corporation on the original issue of the share, or

"(ii) the amount that would otherwise have been payable on the redemption, and"

"2. The corporation remits to the minister an amount equal to the amount required to be deducted under paragraph 1 in the calculation of the amount receivable by the holder of the share on the redemption."

Mr Johnson: The amendment provides that where the fair market value of class A shares of an employee ownership labour-sponsored venture capital corporation has declined below the issue price of the shares, the recapture of the tax credit from the shareholder on an early redemption of a class A share will be proportionately less than the full amount of the tax credit.

The Chair: All in favour of the motion? Opposed?

Motion agreed to.

The Chair: Mr Johnson moves that subclause 6(1)(e)(iii) of the bill be struck out and the following substituted:

"(iii) the corporation shall not register a transfer by the original purchaser, or by a registered retirement savings plan under which the original purchaser or the original purchaser's spouse is the annuitant of a class A share in respect of which an investment certificate has been issued under this act except if the transfer occurs more than five years after the date on which the share was issued, or the amount if any payable under subsection 27(2) to the minister has been paid, or the corporation is notified in writing that the share is being transferred,

"(A) to be held as an investment of a registered retirement savings plan under which the original purchaser or the original purchaser's spouse is the annuitant,

"(B) as a consequence of the death of the original purchaser,

"(C) at a time when,

"1. the original purchaser has retired from the workforce, or has attained 65 years of age, but the share has been issued and outstanding for at least two years, or

"2. the original purchaser has satisfied the condition in paragraph 2 or 3 of sub-subclause (A) of subclause (i), or

"(D) in accordance with the other prescribed conditions."

Mr Johnson: Explanatory note: The amendment clarifies that a transfer of a class A share of an employee ownership labour-sponsored venture corporation may be

registered if any tax credit recapture arising on the transfer has been paid to the minister. A recapture of part or all of the tax credit will normally arise on a transfer of a class A share within the five-year minimum holding period unless: (1) the transfer is to the shareholder's RRSP or a spousal RRSP; (2) the transfer occurs as a result of the death of the shareholder; (3) the transfer occurs when the shareholder has retired or reached age 65 and the share has been issued for at least two years; (4) the shareholder has become permanently disabled; or (5) the shareholder's employment has been involuntarily terminated with the eligible business in which the employee ownership labour-sponsored venture capital corporation has invested.

The Chair: Comments or debate? Mr Carr.

Mr Carr: I just had a question regarding (D). What other ones would be included in there? Does anybody know?

Mr Johnson: Pardon me? I didn't hear the question, Mr Carr.

Mr Carr: What would be included in (D), what other prescribed conditions?

Ms Macnaughton: At the moment I understand there were none proposed.

Mr Carr: None proposed? What do you envision could be one? I'm just wondering why that particular one is in there. What would be the particular reason for it?

Ms Macnaughton: It was put in primarily as a drafting style so that if it should occur that other conditions are the wish of the government, rather than having to amend the act they could be added by regulation.

Mr Carr: So conditions could be thrown in there once the bill passes. Then of course we do it through the regulations, which I think most elected people on all sides are very concerned about but which is happening more frequently in a lot of bills, where basically we pass it through and say, "Trust us with it." That scares me, but it'll pass, I'm sure.

The Chair: Any other comments or debate? The committee is ready to vote. All in favour of the motion? Opposed?

Motion agreed to.

The Chair: The next amendment is clause 6(1)(f).

Mr Johnson moves that clause 6(1)(f) of the bill be struck out and the following substituted:

"(f) the articles of incorporation prohibit the corporation from lending money, guaranteeing a loan or providing other financial assistance to a shareholder of the corporation, to a person related to a shareholder of the corporation or to an employee organization."

Mr Johnson: Explanatory note: The amendment is to eliminate the reference to employee group and is consequential upon the amendments to section 4.

The Chair: Comments or debate? The committee is ready for a vote. All in favour of the motion? Opposed?

Motion agreed to.

The Chair: Next clause, 6(1)(h).

Mr Johnson moves that subsection 6(1) of the bill be amended by striking out clause 6(1)(h).

Mr Johnson: Explanatory note: The amendment strikes out clause 6(1)(h) for administrative simplicity. The clause required an employee ownership labour-sponsored venture capital corporation to contain the term "employee ownership" in the corporation's name.

The Chair: Comments or debate? The committee is ready to vote. All in favour of the motion? Opposed?

Motion agreed to.

The Chair: Shall subsection 6(1), as amended, carry? Carried.

Okay, an amendment to subsection 6(2).

Mr Johnson moves that subsection 6(2) of the bill be struck out and the following substituted:

"Interpretation, tax credit percentage

"(2) For the purposes of clause (1)(e) and section 27, the tax credit percentage means the percentage of the equity capital for which the share was originally issued that is applicable in the determination of any tax credit to which the original holder may be or may have been entitled under section 8 of the Income Tax Act."

Mr Johnson: Explanatory note: The amendment is required to remove reference to a federal tax credit, as the federal government will not provide a matching tax credit on investments in employee ownership labour-sponsored venture capital corporations.

Motion agreed to.

The Chair: Mr Phillips moves that section 6 of the bill be amended by adding the following subsection:

"(4.1) Approval of a business plan, human resource plan and proposed investments of an employee ownership labour sponsored venture capital corporation does not imply that the Lieutenant Governor in Council guarantees the

survival of the eligible business or the rate of return of the investments."

Mr Phillips: The explanation is that this is the mildest thing we could propose in terms of trying to ensure that people understand that because this body has put its stamp of approval on its economic viability doesn't mean it's economically viable. We would prefer to go to something like the Steelworkers proposed, but I don't think that's in the cards. So this is, as I say, the mildest thing we think we can get through the government.

The Chair: Comments or debate?

Mr Carr: I was just going to say that the intent obviously seems reasonable. I think it's a valid point, so I'll be supporting it.

The Chair: Mr Owens and then Mr Johnson.

Mr Owens: I'll yield to Mr Johnson.

Mr Johnson: I just wanted to say that I don't think there's anything implicit that the government would be responsible, even as the bill was presented, but we feel that in order to appease the Liberals and to allow for this notion that there is indeed some extra protection here, we will support this.

The Chair: In other words, you're saying it's more clarification in the bill. Is the committee ready for the vote?

Motion agreed to.

The Chair: Shall subsections 6(3) through 6(6) carry? Carried.

Section 6, as amended, agreed to.

The Chair: This committee will adjourn until 3:30 this afternoon.

The committee recessed at 1204.

AFTERNOON SITTING

The committee resumed at 1551.

The Chair: We resume clause-by-clause of Bill 150. We'll go back for some clarification on the Ontario Teachers' Federation. Could you give us some clarification, sir, on the definition if it's within the scope of this bill?

Mr Sholtack: We've looked at this issue, we've discussed it with legal counsel at the Ministry of Education and the Ministry of Labour and the answer is, we're not sure. As a lawyer, I could say on the one hand and on the other hand. They're not at all covered by the Ontario Labour Relations Act, which generally regulates activities of trade unions. However, we feel they do the same sorts of things as trade unions and come within the purpose and intent of the legislation. So in answer to your question, we will ensure that they do in fact qualify, possibly through a regulation clarifying the matter.

The Chair: Are the committee members satisfied with the answer?

Mr Phillips: I used the teachers as one example. I believe there are lots of other groups out there. I just want to make sure that groups like teachers are covered by the legislation.

Mr Sholtack: We have to look at the whole area to make sure they all come within. Different organizations are there for different purposes. From our review of the statute that covers the teachers' federation, the School Boards and Teachers Collective Negotiations Act, it's the same sort of legislation as the OLRA, authorizing the federation and the affiliates to do the same sorts of things, bargain with school boards. As such, we consider the provincial level association of teachers similar to trade unions.

Mr Carr: If I'm a particular organization, who do I go to now to get clarification? It's obviously a policy decision. What ministry do I go to? Are you going to decide through the regulation? Who is going to have the final decision on this if I'm Mr Joe Blow out there who says, "My group qualifies"? Where does the buck stop?

Mr Sholtack: The Minister of Revenue is charged with the administration of the statute. However, policy is made at treasury. The minister, in consultation with treasury, will give a ruling to particular organizations.

Mr Carr: Are there going to be any formal procedures towards that? How do you see it working and how would one proceed with that?

The Chair: Are you talking—

Mr Carr: It was a question. I think we got a handoff, but it got fumbled.

The Chair: Are you finished your question?

Mr Carr: Yes. I'll ask it again. My question was, who—

The Chair: I thought you were looking for me to answer it. I was listening.

Mr Carr: I see them looking at each other. I didn't mean to be so difficult.

Mr Sholtack: Maybe Mr Evans would like to set out the administrative approach.

Mr Carr: The question was, I'm an organization that now may or may not be covered. It's up to treasury and the Ministry of Revenue. Who do I go to and what's the formal process?

Mr Evans: You will go to the Ministry of Revenue. The Ministry of Revenue, within the framework of the legislation, will have guidelines it will operate under. In the event that the application is clear in relation to the guidelines, we would make a recommendation to the Minister of Revenue.

In the event that we had a situation that was not clear within those guidelines in the regulations, we would take that, as Mr Sholtack has described, to the Minister of Revenue and to treasury to seek clarification. You may have an extension of the regulations through the experiences we have, but essentially it will be within the domain of the Minister of Revenue to provide a response to the applicants as to whether they qualify or not.

Mr Carr: Briefly, what guidelines would you be looking for, what criteria? Could you just lay them out?

Mr Evans: The criteria we will be dealing with will be those that render the application of the act, the achievement of the goals and the intent of the act practical—they will therefore probably relate to the size of the organization so that they have a prospect of creating the appropriate size of capital pool—and whether they are in fact bona fide organizations for purposes that are similar to labour organizations and established trade unions. What we would be looking for is to avoid organizations that appear to have been created for the specific purposes of attracting tax credits for the proposal. So we'll be looking for the extent to which they are bona fide organizations of a similar nature.

Mr Carr: So the minister is going to interpret it rather broadly, other than the fact that somebody who's in it just to get tax credits and beat the system obviously will not. But in terms of legitimate groups, what you're saying is it will be interpreted widely.

Mr Evans: We will have to interpret it consistent with our expectation of what the federal legislation will also allow. That will be one of the guidelines, because we do have federal administration of this bill and we must be sensitive to that fact as well.

Mr Sutherland: I think it might be important to clarify here. Mr Phillips, you brought up the example of teachers. When you asked that, my impression was you were asking for those similar labour organizations that may not fit specifically under the definition of "union" but are really labour organizations, such as the the teachers' federation. In your definition, though, when you talk about other organizations, you're still referring to those that are within a labour framework such as teachers' federations and not just broad organizations in general?

Mr Phillips: All of this is just, I guess, reinforcement. My feeling is it would be in everyone's interest to approve the amendment we proposed, because what I just heard was that you will use the regulation process to identify other associations of employees that may qualify for this.

When I had the original briefing with the staff, they said, "We can only go by"—I think they said—"the federal definition of a trade union." Now I'm hearing something different, that is, that the government's prepared to accept trade unions or other organizations as prescribed in the regulations.

I just wonder why we don't make it easier on all of us by giving the government the latitude to be able to do that in regulation rather than handcuffing the government by the employee organization being only those kinds of very formal definitions that are in the government motion. I don't know why we wouldn't try and get around this problem—regulations are going to have to be put out anyway for the teachers' organizations—by just going back to our original motion.

Mr Johnson: If I could just give some additional background to the reasons why we wouldn't agree to the motion to expand the eligibility of employee organization, let's start with the Treasurer has deemed that broadening the eligibility parameters to establish labour-sponsored investment fund corporations is inadvisable at this time because this is a new type of program. We do not know how popular it will be or what the takeup will be. Broadening it greatly at the onset could result in a proliferation of very small LSIFs without enough funds. Of course, if they are too small, they wouldn't be viable for investors or for the business to meet the program's objectives, which are to create new sources of equity funding for small and medium-sized businesses in Ontario.

1600

Another point is that the government would also like to maintain control of the size of the program and the level of revenue involved. Broadening it greatly would make this impossible. Of course, there are risks. Established long-term and large entities sponsoring and managing LSIFs will reduce risk to investors of failure of the fund.

The opposition mentions often that they want to know why or whether we should adopt the Saskatchewan approach and simply let virtually any employee organization establish an LSIF. There are some reasons why we don't want to do that. The government has elected to restrict the meaning of employee organization with respect to the LSIF component of Bill 150 for several reasons. These include the newness of the program for Ontario. There is a need to establish a body of experience on the administration of this program before any substantive expansion is undertaken.

The government also views worker cooperatives, or teachers' federations for example, as being very similar to trade unions in many respects and therefore they do not represent an inconsistent expansion of the original legislative provision.

From the perspective of the original policy objectives for this program, allowing the creation of a potentially wide range of very small investment funds may actually be counterproductive and the risks to investors of fund dissolution will be minimized by restricting the creation of these investment funds to establish long-term entities.

I understand that we have received today preliminary advice from Finance Canada that the federal government will be prepared to match and prescribe worker cooperatives as

proposed under the amendments to Bill 150. I would also, however, note that this is still subject to formal written confirmation.

I note, for the committee's reference, that looking to Saskatchewan or other provinces as a precedent for federal-Ontario tax policy arrangements is not always relevant. Ontario has a history, perhaps because of its size, of being treated somewhat differently from other provinces in federal-provincial matters. A case in point would be in 1988, when Ontario sought the federal government's approval to introduce a flat tax identical in structure to flat taxes in place at the time in Saskatchewan and Manitoba. When it was Ontario asking, the answer was no. In fact a moratorium was imposed by the federal government on the introduction of any new flat taxes.

The government is therefore satisfied that the proposed definition of employee organization for LSIF purposes is both reasonable and prudent for the time being. The government does not, however, preclude at some future point, after some necessary experience on this program has been gained, a wider range of employee organizations which may establish LSIFs.

Mr Phillips: I don't know whether you think we're stupid, but we're not, and what staff just said was that you're going to include teachers in this, for example. If they are not deemed legally to be a trade union, I don't know how you're going to include them, other than through regulation.

Mr Johnson: But I think—

Mr Phillips: Let me finish. As I see this, you don't have the authority to do that. All I'm suggesting is that you give yourself the authority to do it. I'm getting frustrated about this. We have sent out a letter to the federal government about the co-ops. I want to be assured, because Mr Sutherland said you've had an opinion about the Saskatchewan thing. I'd like that in writing, as I said before, and I hope we will get it.

If teachers aren't a trade union, an association or federation of trade unions or an association or federation of worker co-ops, the way I read the legislation, you don't have the authority to include them. I'm saying, "Why don't you give yourself the authority?"

Mr Sutherland: I stand to be corrected, but my understanding of the interpretation was that there is potential for the teachers to be included, possibly under regulation. I assume too, though, that again it would be subject, as Mr Evans has pointed out, to what the federal government is willing to allow and concede. So it may be subject to that as well, whether they would accept that as a definition as they have on the basis of the worker co-ops.

The Chair: Mr Owens, did you have something to add to that?

Mr Owens: I'm just sitting here looking at groups like the Ontario Secondary School Teachers' Federation, the Ontario English Catholic Teachers' Association and others, confused as to why they wouldn't be captured by the definition that currently exists in this proposed piece of legislation. I suppose the question could then be ventured, what about a group like the Ontario Medical Association that is

now applying the Rand formula to its members? Are they now classed as being eligible under this particular bill? I don't think so.

In terms of how the teachers' unions, as I've always addressed them as, function in terms of their responsibilities and the ability to access the grievance arbitration process, which is clearly covered by the Labour Relations Act, it's my humble opinion that these groups are captured. I don't think I've heard yet a definitive opinion that no, they're not eligible for this particular bill.

Mr Phillips: I think the staff said they don't know. That's what they came back and said.

Mr Owens: That's not no.

Mr Phillips: I understand that, but if down the road they are not under the legal definition of a union, then we have to come back and amend the damned bill. Why don't you just give yourself the latitude so that you can by regulation say they are included?

Mr Sholtack: I think what I said was that it isn't clear, and we will ensure that it is clear. If they're clearly not trade unions, then we don't have the authority, as you say. But it's my view that the issue is not clear. There is a certain uncertainty.

Mr Phillips: I agree totally with you.

Mr Sholtack: As such there is authority to clarify, because the cabinet has the authority to define terms and expressions.

Mr Phillips: It has the authority to define who an employee organization is?

Mr Sholtack: No, not an employee organization—that's already defined in the act—but to clarify terms under the definition of trade union.

Mr Phillips: Where is the definition of trade union?

Mr Sholtack: Specifically if I could refer you to the definition of trade union in section 1 of the bill, that is not a proposed amendment; it's set out in the bill itself.

Mr Phillips: Just tell me where it is.

Mr Sholtack: It's on page 5. "Trade union" means, in one of the parts, "a designated or certified provincial employee bargaining agency..." In my view, that term is broad enough to be defined to include the teachers' federation, which is so close to being a trade union that it would not be out of line to do that. But as the member said, it can't be expanded that much to include, for example, the Ontario Medical Association. It's still within the context of what a trade union is, and the teachers' federation does the sorts of things trade unions do.

Mr Owens: I would like to follow up on this question. What would then be the view of Revenue should this bill pass as it is? What would your view be in terms of OSSTF approaching you on Monday or whenever and saying, "We want to set up one of these LSIFs"? Would Revenue be of the view that the enabling language is there?

Mr Evans: Under the section of the act Mr Sholtack has just described, I think the interpretation we would take would cause us to recommend to the minister that it would be eligible.

Mr Brad Ward (Brantford): I think Mr Phillips's concern is to broaden the definition, and he just used the teachers' federation as one example. My colleague Mr Johnson here quite clearly explained why the government would be reluctant to do that at this time. This is a new initiative. We have the Canadian Federation of Labour, which is ready to go under this bill with its fund. I can't think of any other organizations that are as far ahead as the federation of labour.

Since this is a new initiative I think, as Mr Johnson said, we want to take it a little bit slowly and ensure we're doing it properly. There will be room, as the success of this initiative develops, for expanding the definitions in conjunction and cooperation with, I'm assuming, the federal government, at a later date.

1610

Section 1:

The Chair: Are we ready to go on to the amendments, subsection 1(1) of the bill?

Mr Johnson moves that the definition of "employee organization" in subsection 1(1) of the bill be struck out and the following substituted:

"employee organization" means,

"(a) a trade union,

"(b) an association or federation of trade unions, or

"(c) an association or federation of worker cooperatives."

Mr Johnson: I think the explanation is quite clear.

The Chair: Is there any further comment or debate? Mr Owens.

Mr Owens: In terms of the inclusion of the worker cooperative section, I think this is a great step forward for this group. I know they've worked long and hard, especially Mr John Brouwer, the president of the Ontario Worker Co-op Association. I know he's quite pleased to see this amendment and I'm quite pleased to assist him in having this amendment added.

Mr Phillips: This isn't contingent, though, on federal government approval, is it? This stands alone.

Mr Evans: I understand from what Mr Johnson shared with us earlier in response to a question that we have had a communication from the federal government which confirms that it will match the credit. We are merely waiting at this time for the written confirmation of that decision.

Mr Phillips: Good.

The Chair: Okay. Is the committee ready to vote? All in favour of the amendments? Those against?

Section 1, as amended, agreed to.

Section 7:

The Chair: Now we'll be going on to, I believe, section 7, clause 7(1)(b).

Mr Johnson moves that clause 7(1)(b) of the bill be struck out and the following substituted:

"(b) the corporation fails to file the material required by this act or the regulations."

Mr Johnson: Explanatory note: The amendment removes the reference to a certified employee group and is consequential upon the proposed amendments to section 4.

The Chair: Comments or debate. The committee is ready for the vote. All in favour of the amendment? Opposed?

Motion agreed to.

The Chair: Does subsection 7(2) carry? Carried. The next amendment is to subsection 7(3).

Mr Johnson moves that subsection 7(3) of the bill be amended by striking out "the eligible business or the employee group" in the fourth and fifth lines and substituting "or the eligible business."

Mr Johnson: Explanatory note: The amendment removes the reference to an employee group and is consequential upon the proposed amendments to section 4.

The Chair: Comments or debate? The committee is ready to vote. All in favour? Opposed?

Motion agreed to.

Section 7, as amended, agreed to.

Section 8:

The Chair: Mr Johnson moves that section 8 of the bill be amended by striking out "the corporation and the employee group comply" in the first and second lines and substituting "the corporation complies."

Mr Johnson: Explanatory note: The amendment removes the reference to an employee group and is consequential upon the proposed amendments to section 4.

The Chair: Comments or debate? Is the committee ready for the vote? All in favour of the amendment? Opposed?

Motion agreed to.

Section 8, as amended, agreed to.

Sections 9 to 11, inclusive, agreed to.

Section 12:

The Chair: Mr Johnson moves that section 12 of the bill be amended by adding the following definition:

"'qualifying debt obligation' means a debt obligation that, if secured, is secured solely by a floating charge on the assets of the entity or a debt obligation in respect of which a guarantee has been given."

Mr Johnson: Explanatory note: This defines "qualifying debt obligation" for the purposes of determining whether an investment by a labour-sponsored investment fund corporation is an eligible investment under the act. This definition parallels the provisions in the federal LSVCC program.

The Chair: Comments or debate? The committee is ready to vote. All those in favour of the amendment? Opposed?

Motion agreed to.

The Chair: Mr Johnson moves that clause 12(c) of the bill be amended by striking out "\$35,000,000" in the fourth line and substituting "\$50,000,000."

Mr Johnson: Explanatory note: The amendment will implement the Treasurer's 1992 budget proposal to permit investment by labour-sponsored investment fund corpora-

tions and eligible businesses having not more than \$50 million in assets. The original limit was \$35 million in assets.

The Chair: Comments or debate? The committee is ready to vote. All those in favour of this amendment? Opposed?

Motion agreed to.

Section 12, as amended, agreed to.

Section 13:

The Chair: Mr Johnson moves that subsection 13(1) of the bill be amended by,

(a) adding after "if" in the fifth line "the corporation has a permanent establishment in Ontario and"; and

(b) striking out "and has a permanent establishment in Ontario" in the third and fourth lines of clause (b).

Mr Johnson: Explanatory note: The amendments clarify that every corporation applying for registration as a labour-sponsored investment fund corporation must have a permanent establishment in Ontario.

The Chair: Comments or debate? This committee is ready for the vote. All in favour of the amendment? Opposed?

Motion agreed to.

Section 13, as amended, agreed to.

Section 14:

The Chair: Mr Johnson moves that subclause 14(1)(d)(i) of the bill be struck out and the following substituted:

"(i) assisting the development of eligible businesses, creating, maintaining and protecting jobs by providing financial and managerial advice to eligible businesses and by providing capital to eligible businesses through the acquisition and holding of shares and qualifying debt obligations issued by eligible businesses that are corporations, and ownership interests of and qualifying debt obligations issued by eligible businesses that are Canadian partnerships, as permitted under this act, and."

Mr Johnson: Explanatory note: Changes to the references to voting shares and unsecured debt obligations to shares and qualifying debt obligations for the purposes of describing the types of investments in which a labour-sponsored investment fund corporation may invest. Labour-sponsored investment fund corporations will be able to invest in both voting and non-voting shares of eligible businesses and in the same type of debt obligations of eligible business which are permitted under the federal LSVCC program.

1620

The Chair: Comments or debate? How does the committee vote, in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that paragraphs 1 and 2 of sub-subclause 14(1)(e)(i)(D) of the bill be struck out and the following substituted:

"1. The holder of the share receives an amount on the redemption that does not exceed the amount that would otherwise have been payable on the redemption less an amount equal to 20% or, if a percentage has been prescribed, the prescribed percentage of the lesser of,

“(a) the amount of equity capital received by the corporation on the original issue of the share, or

“(b) the amount that would otherwise have been payable on the redemption, and

“2. the corporation remits to the minister an amount equal to the amount required to be deducted under paragraph 1 in the calculation of the amount receivable by the holder of the share on the redemption.”

Mr Johnson: Explanatory note: The amendment provides that where the fair market value of the class A shares of a labour-sponsored investment fund corporation has declined below the issue price of the shares, the recapture of the tax credit from the shareholder on a early redemption of a class A share will be proportionately less than the full amount of the tax credit originally paid on the share.

The Chair: Comments or debate? Are we ready for the vote? All in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that subclause 14(1)(e)(iii) of the bill, exclusive of the sub-subclauses, be struck out and the following substituted:

“(iii) the corporation shall not register a transfer by the original purchaser, or by a registered retirement savings plan under which the original purchaser or the original purchaser's spouse is the annuitant, of a class A share in respect of which an investment certificate has been issued under this act, except if the transfer occurs more than five years after the date on which the share was issued, or the amount if any payable under subsection 27(2) to the minister has been paid, or if the corporation is notified in writing that the share is being transferred.”

Mr Johnson: Explanatory note: The addition of the words, “or the amount if any payable under subsection 27(2) to the minister has been paid,” clarifies that a transfer of a class A share of a labour-sponsored investment fund corporation may be registered if any tax credit recapture arising on the transfer has been paid to the minister.

The Chair: Comments or debate? All those in favour of the amendment? Those opposed?

Motion agreed to.

The Chair: Mr Johnson moves that clause 14(1)(f) of the bill be struck out and the following substituted:

“(f) the articles of incorporation prohibit the corporation from lending money, guaranteeing a loan or providing other financial assistance to a shareholder of the corporation, to a person related to a shareholder of the corporation or to an employee organization.”

Mr Johnson: Explanatory note: The amendment removes the reference to employee groups and is consequential upon the proposed amendments to section 4 which eliminate employee groups.

The Chair: Comments or debate? All in favour of this amendment? Those opposed?

Motion agreed to.

Section 14, as amended, agreed to.

Sections 15 to 17, inclusive, agreed to.

Section 18:

The Chair: Mr Johnson moves that clause 18(1)(b) of the bill be struck out and the following substituted:

“(b) the investment is the purchase from the eligible business by the labour sponsored investment fund corporation of,

“(i) shares or a qualifying debt obligation issued by the eligible business in exchange for a consideration paid in money, if the eligible business is a corporation, or

“(ii) an ownership interest in the eligible business or a qualifying debt obligation issued by the eligible business in exchange for a consideration paid in money, if the eligible business is a Canadian partnership.”

Mr Johnson: Explanatory note: The amendments permit labour-sponsored investment fund corporations to invest in voting and non-voting shares as well as debt obligations issued by an eligible business which are secured by a floating charge or in respect of which a guarantee has been given. As such debt obligations are eligible investments of federally registered labour-sponsored venture capital corporations. The amendment is required in order that corporations may register under and comply with both the federal program and the Ontario program. Without the amendment, only voting shares and unsecured debt obligations would be eligible investments for labour-sponsored investment fund corporations.

The Chair: Comments or debate? How does the committee vote? In favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that clauses 18(1)(c) and (d) of the bill be struck out and the following substituted:

“(c) the labour sponsored investment fund corporation does not control the eligible business after the investment is made.”

Mr Johnson: Explanatory note: The amendment clarifies that a labour-sponsored investment fund corporation will be entitled to own a majority ownership interest in an eligible business as long as it does not have control of the eligible business, as defined in subsection 1(3) of the bill.

The Chair: Comments or debate? Committee votes in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that subsection 18(5) of the bill be amended by striking out “or (d)” in the fourth line.

Mr Johnson: Explanatory note: The amendment removes the reference to clause 18(1)(d) and is consequential upon the amendment to strike out that clause.

The Chair: Comments or debate? Committee votes in favour of the amendment? Against?

Motion agreed to.

Section 18, as amended, agreed to.

Section 19 agreed to.

Section 20:

The Chair: Mr Johnson moves that subsection 20(2) of the bill be struck out and the following substituted:

"Idem

"(2) A labour sponsored investment fund corporation shall not invest or maintain an investment in a business that is or was at any time an eligible business if,

"(a) the labour sponsored investment fund corporation controls the business; or

"(b) as a result of the investment, the labour sponsored investment fund corporation would have invested more than \$10,000,000 in the business."

Mr Johnson: Explanatory note: The amendment clarifies that a labour-sponsored investment fund corporation will be entitled to own a majority interest in an eligible business as long as it does not have control of the eligible business, as defined in subsection 1(3) of the bill.

The Chair: Comments or debate? Committee votes in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that subsection 20(3) of the bill be amended by striking out "Clause (2)(a), (b) or (c)" in the first line and substituting "Clause 2(a)."

Mr Johnson: Explanatory note: The amendment is consequential upon the amendment to subsection 20(2) which renumbered the clauses in subsection 20(2).

The Chair: Comments or debate? Committee votes in favour of this amendment? Against?

Motion agreed to.

Section 20, as amended, agreed to.

Sections 21 to 24, inclusive, agreed to.

1630

Section 25:

The Chair: Mr Johnson moves that clause 25(4)(b) of the bill be struck out and the following substituted:

"(b) \$3,500, if the class A shares were paid for after the 6th day of November, 1991, and before the 1st day of March, 1992, or \$5,000, if the class A shares were paid for after the 31st day of December, 1991, with no labour sponsored venture capital corporation tax credit deducted in respect of the shares in the determination of tax payable under the Income Tax Act for the 1991 taxation year."

Mr Johnson: Explanatory note: The amendment would implement the Treasurer's 1992 budget proposal to increase the maximum annual investment in labour sponsored investment fund corporations that is eligible for a tax credit for the year from \$3,500 to \$5,000 for 1992 and subsequent taxation years.

The Chair: Committee votes for the amendment? Against?

Motion agreed to.

Section 25, as amended, agreed to.

Section 26:

The Chair: Mr Johnson moves that clause 26(1)(c) of the bill be struck out and the following substituted:

"(c) the labour sponsored venture capital corporation is registered under part II and becomes a party to a transaction or a series of transactions that result or would result in a direct or indirect change of control of the labour sponsored venture capital corporation, including an amalgamation,

merger, arrangement or winding up of the corporation, unless,

"(i) the date of the transaction or the first transaction in the series of transactions is at least five years after the last date on which a class A share was issued by the corporation, or

"(ii) the action has been approved in advance by the Employee Ownership Advisory Board and the Minister of Industry, Trade and Technology."

Mr Johnson: Explanatory note: The amendment provides that any change in the control of an employee ownership labour-sponsored venture capital corporation within five years of the last issue of shares must be approved by the Employee Ownership Advisory Board and the Minister of Industry, Trade and Technology.

The Chair: All in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that clause 26(1)(e) of the bill be amended by striking out "or employee group" in the fifth line.

Mr Johnson: Explanatory note: The amendment removes a reference to an employee group and is consequential upon the proposed amendments to section 4.

The Chair: All in favour of the amendment? Against?

Motion agreed to.

Section 26, as amended, agreed to.

Section 27:

The Chair: Mr Johnson moves that clause 27(1)(b) of the bill be amended by striking out "fair value" in the ninth line and substituting "fair market value."

Mr Johnson: Explanatory note: The amendment clarifies that the amount referred to is the fair market value of the class A share.

The Chair: All those in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that clauses 27(2)(a) and (b) of the bill be struck out and the following substituted:

"(a) if the share was issued by a corporation registered under part II, the tax credit percentage of the lesser of the amount of equity capital for which the share was originally issued or the fair market value of the share at the date of the transfer unless the share is being transferred under circumstances set out in sub-subclause 6(1)(e)(iii)(A), (B), (C) or (D); or

"(b) if the share was issued by a corporation registered under part III, 20 per cent or the prescribed percentage if a percentage has been prescribed, of the lesser of the amount of equity capital for which the share was originally issued or the fair market value of the share at the date of the transfer, unless the share is being transferred under circumstances set out in sub-subclause 14(1)(e)(iii)(A), (B) or (C)."

Mr Johnson: Explanatory note: The amendment provides that where the fair market value of the class A shares of an employee ownership labour-sponsored venture capital corporation or of a labour-sponsored investment fund corporation has declined below the issue price of the

shares, any recapture of the tax credit arising by reason of the non-exempt transfer of the share by the shareholder before the expiry of the five-year holding period will be proportionately less than the full amount of the tax credit.

The Chair: All those in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that subsection 27(4) of the bill be struck out and the following substituted:

"Idem, liability of holder

"(4) If a person as the holder of a class A share issued by a labour sponsored venture capital corporation within the immediately preceding five years receives an amount in respect of the reduction of the stated capital account attributable to the class A shares, other than by way of a redemption of the class A shares, the person shall immediately pay to the minister an amount of money equal to,

"(a) if the share was issued by a corporation registered under part II, the tax credit percentage applied to the amount so received; or

"(b) if the share was issued by a corporation registered under part III, 20% of the amount received or, if a percentage has been prescribed, the prescribed percentage of the amount received."

Mr Johnson: Explanatory note: The amendment clarifies that reductions of stated capital other than by way of share redemptions are contemplated by subsection 27(4), and that any recapture of tax credits from shareholders on such reductions of stated capital will not include any amount representing any federal tax credits provided on the purchase of labour-sponsored investment fund corporation shares.

The Chair: All those in favour? Against?

Motion agreed to.

Section 27, as amended, agreed to.

Section 28:

The Chair: Mr Johnson moves that section 28 of the bill be amended by striking out subsection (2).

Mr Johnson: Explanatory note: The amendment eliminates interest on the refundable penalty imposed on labour-sponsored venture capital corporations which fail to meet the minimum level of eligible investments required under the act.

The Chair: All in favour? Against?

Motion agreed to.

Section 28, as amended, agreed to.

Section 29:

The Chair: Mr Johnson moves that subsection 29(1) of the bill be struck out and the following substituted:

"(1) An amount payable under this act to the minister or the crown by a labour sponsored venture capital corporation or any other corporation shall be deemed to be a tax imposed on the corporation under part II of the Corporations Tax Act, payable on the date the liability arises, for the purposes of collection and enforcement under that act."

Mr Johnson: Explanatory note: The amendment clarifies that no interest is payable on tax credits recaptured under

the act and that amounts owing under the act will be deemed to be tax owing under the Corporations Tax Act, only for the purpose of authorizing the minister to use the legal remedies available under that act to enforce collection of the debt.

The Chair: All in favour of the amendments? Against?

Motion agreed to.

Section 29, as amended, agreed to.

Section 30 agreed to.

Section 31:

The Chair: Mr Johnson moves that subsection 31(1) of the bill be amended by striking out clause (a).

Mr Johnson: Explanatory note: The amendment removes provisions relating to employee groups and is consequential upon the proposed amendments to section 4.

The Chair: Everyone in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that subsection 31(2) of the bill be struck out and the following substituted:

"Service of notice of proposal

"(2) The minister shall serve the notice under subsection (1) upon the corporation in the prescribed manner, together with written reasons for the proposal."

Mr Johnson: Explanatory note: The amendment removes provisions relating to employee groups and is consequential upon the proposed amendments to section 4.

The Chair: All those in favour of the amendment? Against?

Motion agreed to.

Section 31, as amended, agreed to.

Section 32:

The Chair: Mr Johnson moves that section 32 of the bill be amended by adding the following subsection:

"Inquiry by commission or director

"(8) The commission or the director, as the case requires, has all the powers of the commission under parts III and VI of the Securities Act for the purposes of an inquiry by either of them upon being authorized under subsection (4), and for the purpose references to the Securities Act shall be deemed to refer to this act and references in that act to securities shall be deemed to include class A shares and any other shares of a prescribed class of a specified employee ownership corporation."

Mr Johnson: Explanatory note: The amendment provides that where the minister designates the Ontario Securities Commission or the director of the OSC to make inquiries to ensure compliance with the act and regulations, the commission and director will have the same administrative, investigative and enforcement powers that may be exercised under parts III and VI of the Securities Act.

The Chair: Comments or debate? All in favour of the amendment? Against?

Motion agreed to.

Section 32, as amended, agreed to.

Section 33 agreed to.

1640

Section 34:

The Chair: Mr Johnson moves that subsection 34(1) of the bill be amended by striking out "or" at the end of clause (b) and adding the following clauses:

"(d) fails to comply with an order, decision, direction, requirement or demand made under this act or the regulations; or

"(e) contravenes this act or the regulations."

Mr Johnson: Explanatory note: The amendment is consequential upon the amendments to add an investor protection code by regulation under the act in respect of employee ownership labour-sponsored venture capital corporations. The purpose of the amendment is to provide that failure to abide by any order, requirement, decision, direction or demand made under the act or the regulations will be an offence which may be prosecuted under the act.

The Chair: Comments or debate? All in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that section 34 of the bill be amended by adding the following subsection:

"Penalty, disclosure document

"(2.1) Every person convicted of an offence described in clause (1)(a) in respect of a disclosure document is liable on conviction to a fine of not less than \$5,000 and not more than \$1,000,000 or to imprisonment for a term of not more than two years, or both such fine and imprisonment, and not as provided in subsection (2)."

Mr Johnson: Explanatory note: The amendment provides for a higher maximum penalty for false or misleading statements in disclosure documents since eligible employees will rely on information provided in disclosure documents in making the decision of whether to proceed to invest in the employee ownership labour-sponsored venture capital corporation.

The Chair: Comments or debate? All those in favour of the amendment? Against?

Motion agreed to.

The Chair: Mr Johnson moves that the bill be amended by adding the following sections:

"Application to court by minister

"34.1(1) The minister may apply to the Ontario Court (General Division) for an order against a person who fails to comply with or contravenes this act or the regulations.

"Nature of order

"(2) An order under subsection (1) may direct the person to comply with, or may restrain the person from contravening, one or more specific provisions of this act or the regulations, or the court may make such further or other order as the court considers appropriate in the circumstances.

"Persons affected by order

"(3) An order under subsection (1) may be directed also to any one or more of,

"(a) the directors and senior officers of the person if the person is a corporation;

"(b) the partners, if the person is a partnership;

"(c) the members who comprise the person, if the person is an unincorporated association, unincorporated syndicate, unincorporated organization or a trust;

"(d) the directors and senior officers of a corporation that is a partner or member mentioned in clause (b) or (c); and

"(e) the partners of a partnership that is a member mentioned in clause (c).

"Effect of other remedy or penalty

"(4) An order may be made under subsection (1) despite any other remedy or penalty under this act or the Securities Act.

"Appeal

"(5) An appeal lies to the Divisional Court from an order under subsection (1).

"Cease trade order

"34.2(1) The minister, in the circumstances specified in subsection (2), may order that trading cease in respect of the class A shares or any of them or any other shares of a prescribed class of an employee ownership labour sponsored venture capital corporation for such a period of time as is specified in the order.

"Conditions precedent

"(2) The minister may make an order under subsection (1) on the recommendation of the director or if the minister is entitled under this act to revoke the corporation's registration under this act.

"Limitations

"(3) An order under subsection (1) may be made subject to such limitations as the minister imposes when making the order.

"Appeal

"(4) An appeal lies to the Divisional Court from an order under subsection (1).

"Designation by minister

"34.3 The minister may designate the commission, the director, or another person to exercise the powers of the minister under sections 34.1 or 34.2.

"Application of part V of Securities Act

"34.4 Part V of the Securities Act applies to a decision of the director in respect of an employee ownership labour sponsored venture capital corporation or the shares of such a corporation in the same manner as for a decision of the director referred to in that part and, for the purpose, a reference to the minister shall be deemed to be a reference to the Minister of Financial Institutions.

"Disclosure document

"34.5(1) A specified employee ownership corporation or selling security holder on whose behalf a distribution of Class A shares or shares of a prescribed class is made shall send a disclosure document by prepaid mail to the purchaser of each such share either before or forthwith after agreeing to sell the share to the purchaser.

"Delivery

"(2) A disclosure document sent by prepaid mail in accordance with subsection (1) shall be deemed conclusively to have been received in the ordinary course by mail by the person to whom it was addressed.

"Civil liability

"34.6 (1) A purchaser of a Class A share of an employee ownership labour sponsored venture capital corporation or

of a share of a prescribed class of such corporation who suffers a loss due to misrepresentation in the disclosure document by which the share was offered has a right of action for damages for the loss.

“Reliance on misrepresentation

“(2) For the purposes of subsection (1), the purchaser shall be deemed to have relied on the misrepresentation in purchasing the share.

“Other right

“(3) The right of action under subsection (1) is in addition to and without derogation from any other right the purchaser may have at law other than the right of rescission provided in subsection (6).

“Persons liable

“(4) Subsection (1) applies only if the share was purchased during the prescribed period of distribution of such shares and the misrepresentation was a misrepresentation at the time of purchase of the share.

“Idem

“(5) The right of action under subsection (1) lies against,

“(a) the employee ownership labour sponsored venture capital corporation, or the security holder, on whose behalf the distribution is made;

“(b) every person who was a director of the employee ownership labour sponsored venture capital corporation at the time the disclosure document was filed with the director;

“(c) every person whose consent has been filed with the minister or the commission in compliance with the regulations, but only with respect to any report, opinion or statement made by the person; and

“(d) any other person who signed this disclosure document.

“Rescission

“(6) The purchaser may elect to rescind the purchase of the share, if the share was purchased from the employee ownership labour sponsored venture capital corporation or the security holder on whose behalf the distribution was made, in which case subsection (1) does not apply in respect of the corporation or security holder, but the right of rescission is in addition to and without derogation from any other right the purchaser may have at law.

“Application of Securities Act

“(7) Subsections 130(2) to (9) of the Securities Act apply with necessary modifications in respect of an action under this section and, for the purpose, a reference to a prospectus shall be deemed to be a reference to a disclosure document.

“Time limit, rescission

“(8) No action to rescind the purchase of a share mentioned in this section shall be commenced later than 180 days after the date of the transaction that gave rise to the cause of action.

“Time limit, other

“(9) No action mentioned in this section, other than to rescind the purchase of a share, shall be commenced later than the earlier of,

“(a) 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action; or

“(b) three years after the date of the transaction that gave rise to the cause of action.

“Transitional rule

“(10) This section does not apply in respect of an employee ownership labour sponsored venture capital corporation and each selling security holder of the employee ownership labour sponsored venture capital corporation in respect of sales of securities occurring after the date that the corporation becomes a reporting issuer.”

1650

Mr Johnson: Explanatory note: The proposed amendments implement and support the proposed investor protection provisions.

Section 34.1 authorizes the minister to apply for a court order requiring compliance with the provisions of the act and regulations.

Section 34.2 permits the minister to issue a cease trading order on the recommendation of the director of the OSC or if the registration of the LSVCC may be revoked for non-compliance with the act.

Section 34.3 authorizes the minister to designate the OSC or the director of the OSC to exercise the minister's powers to apply for the court order under section 34.1 or to issue a cease trading order under section 34.2.

Section 34.4 provides for an appeal from an order made by the director of the OSC.

Section 34.5 requires the provision of a disclosure document in respect of shares of employee ownership labour-sponsored venture capital corporations.

Section 34.6 provides legal remedies to an investor in respect of any misrepresentations made in a disclosure document relating to shares of employee ownership labour-sponsored venture capital corporations.

The Vice-Chair: We'll give Mr Johnson a second here to catch his breath after that. I guess we can then see if we're ready to have any debate on these several sections.

Interjections.

The Chair: Any comments or debate?

Mr Phillips: I didn't hear all that. Could we have that read again?

The Chair: I missed it. I was out of the room, Mr Phillips. I'm in the same situation. I guess the committee's ready for the vote. All in favour of the amendments? Against?

Motion agreed to.

Section 34, as amended, agreed to.

Section 35:

The Chair: Mr Kwinter moves that the bill be amended by adding the following section:

“Review

“35.1(1) The minister shall initiate a review of the operation of this act if the amount of tax revenue forgone by Ontario from the issuing of tax credit for investments in employee ownership labour sponsored venture capital corporations and labour sponsored investment fund corporations exceeds \$250,000,000 in any year.

“Scope

“(2) The review shall examine,

“(a) whether the cost of the program exceeded the benefits derived;

“(b) the level of the investment credit; and

“(c) the government’s monitoring mechanisms to prevent fraud and misuse of the program.

“Report

“(3) The report of the review may make recommendations to the minister as to any changes to this or any other act to improve compliance by eligible investors and to limit the cost of the program.”

Mr Kwinter: If I can just elaborate, this is in keeping with some of the concerns expressed this morning that if this program should be found by investors who have no interest in the program per se but who use it as a vehicle for avoiding tax—it would seem to me that the government has made a projection as to what the level of the forgoing of taxes will be in order for this program to be implemented and by calling for this review, if it is found that the program in fact has a larger amount of tax forgoance, there is a vehicle whereby someone can take a look at it and make adjustments or cancel the program and do whatever they have to do.

I think it’s important that there be some provision to allow that to happen just in case we have to have a similar program to the scientific research, which turned into a real boondoggle and cost the taxpayers of Canada hundreds of millions of dollars without any benefits.

The Chair: Any comments or debate?

Mr David Christopherson (Hamilton Centre): The government understands the spirit of this proposed amendment. In fact, treasury board was recently established by this government and one of its major ongoing functions is to review the appropriateness and cost-effectiveness of all the government’s programs including tax expenditure programs. For example, treasury board in the past year reviewed over 20 programs.

Therefore, while we agree with the spirit of the proposed amendment, it would be redundant to introduce a special provision in this one bill. It is, in this government’s view, important to review all programs in the context of the government’s priorities and fiscal capacity. We think treasury board is best positioned to undertake these reviews.

The Chair: Any further comments or debate? Mr Kwinter.

Mr Kwinter: Yes, I’d like to respond to that. The concern I have—it’s very much like the Provincial Auditor. The Provincial Auditor does his mandated audit work and then, in the last couple of years, has undertaken an additional responsibility of taking a look at some of the transfer agencies. The auditor goes in, and quite frankly I don’t know how the selection is made, but he will go into a university, a hospital or some of the major transfer agencies and it may take him 10 or 15 years until he gets through all of them.

Notwithstanding that the treasury board is going to look at all programs, my concern is that it may get to this and it may not. It’s like estimates: Some ministries never get to estimates because, for whatever reason, there’s no real interest in pursuing it because it doesn’t appear to be an urgent public interest. My feeling is that if this is

provided for in the bill, then there will be that little red flag that says we must continue to monitor this particular program, given the possibility of abuse. That is really the reason for it.

I understand your position that we monitor these things on an ongoing basis. I am concerned that it may be 20 years until they get to this particular one. By that time the horse has been stolen, the barn door is open and you sort of know about it in retrospect and say, “Gee, it’s too bad that happened.” That is really the concern I have.

The Chair: Further comments or debate? Mr Christopherson.

Mr Christopherson: It’s not that this is a bad idea. As I’ve noted, we do have a treasury board and it does review programs, even tax expenditure programs, on a regular basis. The idea of including specific programs in each spending program has merit, but it should be approached on a coordinated basis, not on an ad hoc, bill-by-bill basis.

I also remind the member that the kind of analysis being undertaken by the current treasury board, I suggest, is unlike anything that has happened in terms of its comprehensiveness, the areas it’s covered and the checks and balances that have been built into those reviews so that it’s not just a one-time shot, never to happen again for another couple of decades.

In summary, I would again acknowledge that the principle is not one we have a great deal of difficulty with, it’s the idea of putting it into each bill, one by one, on such an ad hoc basis. We really and sincerely believe that the coordinated approach treasury board can bring to these kinds of reviews is the best one for the government.

The Chair: Further comments? Mr Kwinter.

Mr Kwinter: Obviously, I don’t want to drag this on for ever, but I just want to make an additional comment. I don’t think you can categorize this particular type of bill with the normal bills, that every single bill—we can’t have a specific provision in it for review. We have to have uniformity; we have to have some coordinated effort.

I suggest in all humbleness and candour that this is not an ordinary kind of a bill. This bill is designed to do a specific thing: to encourage investment. In return for that investment, the province is prepared to forgo taxation. It is prepared to give the participants tax breaks. Those tax breaks are an inducement to get people to invest. Because of the very specific nature of this bill, it isn’t just like any other bill, it’s relatively unique. It’s a relatively unique concept where investors who invest their money in these vehicles will get tax benefits.

1700

My concern, spelled out in our amendment, is the cost of the program exceeding the benefits. Are we as taxpayers getting full value for forgoing potentially \$250 million? Is it doing what it’s supposed to do? If it isn’t—and surely I don’t have to impress upon anybody in this room that the Treasurer could sorely use that \$250 million in many other programs. Because of the very specific intent and the very specific nature of this bill, I think it’s incumbent upon us to monitor it far more closely than we would normal bills or normal activities or normal agencies or normal ministries.

This is a specific initiative to do a specific thing. Everybody acknowledges—and Mr Evans acknowledged earlier today that the reason they didn't want to expand the scope of the participation is because they want to monitor it very closely in case it is being abused. All I'm saying is let's put that in the bill to make sure that happens. I really can't say any more about it.

The Chair: Any further comments?

Mr Christopherson: No, thank you, Mr Chair.

The Chair: Okay, I guess the committee's ready for the vote. All those in favour of the amendment, section 35.1? All those against?

Motion negatived.

The Chair: The next one's a government motion, section 35.1.

Mr Johnson moves that the bill be amended by adding the following sections:

"No action against commission, etc.

"35.1(1) No action or other proceeding for damages shall be instituted against the commission, the director, any member, employee or agent of the commission or any person delegated to carry out any of the minister's duties or powers under this act for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of his or her duty.

"Liability of crown

"(2) Subsection (1) does not by reason of subsections 5(2) and (4) of the Proceedings Against the Crown Act relieve the crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the crown is liable under the act for any such tort in a like manner as if subsection (1) had not been enacted.

"Immunity re compliance

"35.2 No person has any right or remedy and no proceeding lies or shall be brought against another person for an act or omission of such other person done or omitted in compliance with this act, the regulations or a direction, decision, order, ruling or other requirement made or given under this act or the regulations."

Mr Christopherson: Explanatory note: Section 35.1 extends the immunity provisions already in the bill to the OSC, the director of the OSC and other persons designated by the minister to perform regulatory functions under the bill. Under section 35.2, no person can be held liable for complying with the act or directions, decisions, order etc, given under the act. Sections 35.1 and 35.2 parallel the existing immunity provisions in the Securities Act.

The Chair: Any comments or debate? All those in favour of the amendment? Those against?

Motion agreed to.

Section 35, as amended, agreed to.

Section 36 agreed to.

Section 37:

The Chair: Mr Johnson moves that section 37 of the bill be amended by adding the following subsection:

"(2.1) The Lieutenant Governor in Council, on the recommendation of the Minister of Financial Institutions, may make regulations governing specified employee ownership corporations and the trading of securities of specified employee ownership corporations and, without limiting the generality of the foregoing,

"(a) designating any of the commission, the director or other persons as a person or persons responsible for the administration and enforcement of regulations made under this subsection; prescribing and governing the duties and responsibilities of them or any of them in respect of such designation; and prescribing and governing the discretion that the commission shall exercise in carrying out its duties and responsibilities upon being so designated;

"(b) prescribing rules and procedures that shall govern the preparation, filing, receipt, distribution and delivery of disclosure documents in respect of such corporations;

"(c) prescribing the form and content of disclosure documents or of any type or types of disclosure documents in respect of such corporations;

"(d) prescribing and governing the ongoing disclosure and proxy obligations of such corporations and rules and procedures that shall govern such corporations in relation to such obligations;

"(e) governing or prohibiting transfers of or trading in shares or any class of shares of such corporations;

"(f) governing the timing of distributions of shares or any class of shares of such corporations;

"(g) prohibiting representations or solicitations or both in respect of shares or any class of shares of such corporations;

"(h) governing takeover bids, issuer bids and insider reporting in respect of shares of any class of shares of such corporations;

"(i) prescribing the nature of the advice to be given and the qualifications that must be held by independent advisers who provide advice to employees in respect of proposed applications for registration under this act;

"(j) exempting or permitting the commission or the director to exempt any person or class of persons, or any class of shares, in whole or in part, with or without conditions, from this act, the Business Corporations Act, the Securities Act or a regulation made under any of them, in respect of such corporations, if the Minister of Revenue determines that the person, class of persons or class of shares complies with the intent of this act;

"(k) varying or permitting the commission or the director to vary the application of this act in respect of any person or class of persons, or class of shares, if the Minister of Revenue determines that the person, class of persons or class of shares complies with the intent of this act."

Mr Johnson: Explanatory note: The amendment will authorize the making of regulations to implement the investor protection provisions applicable to employee ownership labour-sponsored venture capital corporations which will apply instead of the Securities Act.

The Chair: Comments or debate? All those in favour of the amendments? All those against?

Motion agreed to.

Section 37, as amended, agreed to.
Sections 38 to 41, inclusive, agreed to.

Section 42:

The Chair: We'll go on to clause 42(1)(a).

Mr Johnson moves that clause 42(1)(a) of the bill be struck out and the following substituted:

"(a) whether a proposal submitted under this act is equitable and reasonably commercially viable over the period covered by the proposal."

Mr Johnson: Explanatory note: The amendment clarifies that the Employee Ownership Advisory Board will review proposals submitted by employee ownership labour-sponsored venture capital corporations to determine if the proposals are equitable and reasonably commercially viable over the contemplated time periods.

The Chair: Comments or questions? All those in favour of the amendment? Against?

Motion agreed to.

Section 42, as amended, agreed to.

Sections 43 to 46, inclusive, agreed to.

Section 47:

The Chair: Mr Johnson moves that subclause 8(8.1)(b)(ii) of the Income Tax Act, set out in subsection 47(3) of the bill, be struck out and the following substituted:

"(ii) \$700, if the deduction is made in determining the amount of tax payable under this act for the 1991 taxation year, or \$1,000 if the deduction is made in determining the amount of tax payable under this act for the 1992 or a subsequent taxation year."

Mr Johnson: Explanatory note: The amendment would implement the Treasurer's 1992 budget proposal to increase the annual tax credit for investments in labour-sponsored investment fund corporations from \$700 to \$1,000 for 1992 and subsequent taxation years.

The Chair: Comments or debate? All those in favour of the amendment? Against?

Motion agreed to.

Section 47, as amended, agreed to.

Section 48:

The Chair: Mr Johnson moves that section 48 of the bill be struck out and the following substituted:

"48. Section 143 of the Securities Act is amended by adding the following paragraph:

"38. Regulating labour sponsored investment fund corporations registered under part III of the Labour Sponsored Venture Capital Corporations Act, 1992, and the distribution and trading of the securities of such corporations and varying the application of the Act in respect of such corporations and, without limiting the generality of the foregoing,

"(a) prescribing proficiency requirements or additional proficiency requirements that shall apply in respect of registrants or any class of registrants in respect of such corporations;

"(b) prescribing or prohibiting the use of particular forms or types of offering documents for or in respect of the securities of such corporations;

"(c) prescribing disclosure requirements or additional disclosure requirements for or in respect of the securities of such corporations;

"(d) exempting such corporations from specified requirements or restrictions that ordinarily apply to or in respect of mutual funds;

"(e) prescribing insider reporting requirements for or in respect of such corporations."

Mr Johnson: Explanatory note: The current wording of section 48 of the bill is no longer required as the Securities Act will not apply to employee ownership labour-sponsored venture capital corporations. New proposed section 48 will amend section 143 of the Securities Act to authorize the making of regulations under the Securities Act to implement the proposed investor protection provisions under that act applicable to labour-sponsored investment fund corporations."

The Chair: Comments or debate? All those in favour of the amendment? Against?

Motion agreed to.

Section 48, as amended, agreed to.

Section 49:

The Chair: Mr Johnson moves that section 49 of the bill be amended by adding the following subsection:

"Application, Income Tax Act

"(2) The amendments to the Income Tax Act set out in section 47 apply in respect of 1991 and subsequent taxation years of individuals.

Mr Johnson: Explanatory note: The amendment ensures that for personal income tax purposes, 1991 is the first taxation year for which tax credits may be claimed for investments in labour-sponsored venture capital corporations even though the act is not deemed to have come into force until October 15, 1991.

The Chair: Comments or debate? All those in favour of the amendments? Those against?

Motion agreed to.

Section 49, as amended, agreed to.

Sections 50 and 51 agreed to.

Bill, as amended, ordered to be reported to the House.

Mr Owens: Mr Chairman, just before we adjourn for the day, I would like to, on behalf of the Minister of Financial Institutions, Brian Charlton, and myself as his parliamentary assistant, take the opportunity to thank the other staff from the ministries involved: Revenue, Treasury and of course our Ministry of Financial Institutions.

I would also like to give a special thank you to Julie-Luce Farrell who assisted me on my arrival on this committee. As you are aware, I was a late addition to the committee, and without her assistance the good work we've been able to accomplish here today would not have been possible. Thank you again.

Mr Sutherland: In terms of other business, there had been a request for the Treasurer to come before this committee to talk about the budget. That request has gone in. The Treasurer has indicated that he is willing to attend. We've not got any confirmation as to when his schedule will allow. Given the fact that we don't have anything else

on the agenda right now, I believe efforts will be made to have the Treasurer try to attend next week, but I don't make any guarantees because the Treasurer this week is overseas, I believe in Europe, and with his being away for a week he may not be available to make it here for this committee next week. But efforts will be made to get the Treasurer here, if not next week then probably the week after.

The Chair: Thank you, Mr Sutherland. I would like as Chair to thank all the ministry staff for all the help they have given to all committee members on this bill. If it weren't for some of the information meetings that were

carried on, I think we would have been stumbling a little bit more through this committee, and I have to say thank you.

Mr Johnson: I too want to thank all the Revenue staff who assisted me and other members of the committee with this particularly difficult legislation. Through all aspects of it, from its inception to all the amendments, your assistance was certainly very much appreciated, especially by myself; and I thank you for crossing all the t's and dotting all the i's.

The committee adjourned at 1715.

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Gerald Sholtack, director, legal services branch	
Catherine Macnaughton, senior solicitor, legal services branch	

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Substitutions / Membres remplaçants:

- *Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Ms Ward
- *Owens, Stephen (Scarborough Centre ND) for Mr Jamison

*In attendance / présents

Also taking part / Autres participants et participantes:

Whitehead, John, senior budget adviser, Ministry of Treasury and Economics
Wright, Diana, economics specialist, taxation policy branch, Ministry of Treasury and Economics

Clerk / Greffier: Decker, Todd

Staff / Personnel: Tucker, Sidney, deputy chief legislative counsel

CA201
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Publication



F-8

F-8

ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 25 June 1992

Standing committee on finance and economic affairs

1992 Budget

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Jeudi 25 juin 1992

Comité permanent des finances et des affaires économiques

Budget de 1992



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 25 June 1992

The committee met at 1612 in committee room 1.

1992 BUDGET

Consideration of the 1992 budget.

The Chair (Mr Ron Hansen): I call to order this meeting of the standing committee on finance and economic affairs.

MINISTRY OF TREASURY AND ECONOMICS

The Chair: We have a special guest here today, the Honourable Floyd Laughren, Ontario Treasurer. The Treasurer will start off with a few comments. I believe he has a short brief to present to us. We'll start off with questions from the official opposition for 10 minutes, then go to the third party and then over to the government and rotate as much time as we can get in on questions. You have the floor, Treasurer.

Hon Floyd Laughren (Deputy Premier, Treasurer and Minister of Economics): I appreciate the invitation to attend. I don't get very many friendly invitations. With me is Phyllis Clark, the assistant deputy minister in the office of economic policy, and other people, also enormously talented, who are here to help me when I get into trouble this afternoon.

I received a list and I'll deal with it later. I don't know how you want to handle that. Mr Phillips had some very pointed, focused questions; most appropriate questions, I might add.

The Chair: We can have Mr Phillips ask those questions, the ones he wants to ask.

Hon Mr Laughren: I'm in your hands on that.

I'll just make a couple of opening comments, if I might. I don't want to make a long statement because this is really time for members of the committee.

We have been through a very tough year. In the last two years there has been a little over 300,000 job losses in the province. That's caused all sorts of other problems, not just to the people who were laid off but in a fiscal sense too, with our social assistance case loads and dramatically falling revenues. It's been very, very tough. Anyway, I know members understand that because in their own constituencies that will have been reflected.

We have a sense that things are starting to turn around. If I'd been here a year ago I would have said the same thing, and in fact it didn't turn around a year ago. But even then most experts were saying what they're saying now, that the turnaround was starved and there are some signs out there that the recovery has begun.

Everyone knows it's going to be a slow, painful recovery. Unemployment's going to remain high for the next three years, as we laid out in our medium-term fiscal plan in the budget. We don't like that, but at the same time we

have to put in the numbers that we feel are accurate. That problem will stay with us for a while.

This year so far the revenues have been relatively flat and not far off our projections. I used to say "spot on" but—

Mrs Elinor Caplan (Oriole): But you don't say that any more.

Hon Mr Laughren: Well, not as often.

Mrs Caplan: How about "not even close."

Hon Mr Laughren: I wouldn't say that. Anyway, I'm certainly feeling more optimistic than I was six months ago, and I hope things are turning. It's to all our advantage for that to happen.

We prepared in Treasury not a thick document, a fairly lightweight document, called the Ontario Economic Report. It was distributed to the cabinet committee on economic and labour policy. I think that's the only other place it's been. If the clerk wishes, I would table it with the committee. It hasn't been tabled anywhere yet. It is simply a report that's almost like a status quo; where we're at, basically. It deals with current economic conditions, the macroeconomic outlook, labour market performance and outlook, sectoral performance and outlook, and some notes on regional performance and outlook as well. It was really to provide members with a snapshot rather than any hefty analysis, so it doesn't pretend to be that.

Mr Norman W. Sterling (Carleton): Was it lightweight because of the committee it was presented to?

Hon Mr Laughren: I would not talk about this committee that way, Norm. I will stop talking and turn it back to you, Mr Chair, to deal with as you will.

The Chair: I'm pleased that with the short notice we gave your office and your staff that you're able to come forward today. It was the request of Mr Phillips. We didn't know how the House was sitting at that particular time, but we're able to have you here and I'm glad to see you here.

Mr Gerry Phillips (Scarborough-Agincourt): I appreciate the Treasurer being here and I hope the committee might on a fairly regular basis, perhaps quarterly, have a chance to talk with the Treasurer. I find it useful to get updated on where we are. It is virtually at the end of the first quarter now, within a few days, and the message I get from the Treasurer is that things seem to be proceeding, I gather, essentially as you had predicted in the budget.

I have a feeling that I may use up our whole 10 minutes with the three questions I asked. They are side issues, but important issues. Perhaps the Treasurer could just fill us in on those three. I think I've given copies to most people.

Hon Mr Laughren: The first question Mr Phillips asked was:

"I would like to discuss the teachers' pension plan as well as the public service pension plan. For each I would be interested in knowing the following:

"1. What has been the schedule of payments to each plan in each year for the previous three years?

"2. What will be the effect of the delayed payment, and what will be the interest costs payable as a result of the delay?

"3. What are the contribution requirements for the next three years?"

I could deal with each one of those in turn as they're now on the record for Hansard.

The schedule of payments to each plan each year for the previous three years: If we go back to 1989-90 and then deal with 1990-91 and 1991-92, for the public service pension, the matching contribution, the employer's contribution, for the public service in 1989-90 was \$176 million. There was a special payments catch-up—if I'm using the wrong language, Mr Puttee or David will correct me—of \$22 million, for a total of \$198 million. That's the public service 1989-90.

For 1990-91 the matching contribution was \$228 million, special payment catch-up—am I using the right language, that it's an actuarial deficiency?

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Mr Alan Puttee: My name is Alan Puttee. The special payments are in respect of the unfunded liability, which is being paid off over 40 years.

Hon Mr Laughren: And for 1991-92—did I give you that already?—it is \$264 million for the matching contribution and \$119 million for special payments, for a total of \$383 million.

Mr Phillips: What's the total in 1990-91?

Hon Mr Laughren: Maybe I didn't give it to you. For 1989-90 the total is \$198 million, for 1990-91 \$319 million, and for 1991-92 \$383 million. Just to stick to precisely the first question, it was the schedule of payments.

For the teachers, switching over to them now, for 1989-90 the matching contribution was \$420 million, with a special payment of \$187 million, for a total of \$607 million. For 1990-91 the matching contribution was \$408 million, special payment \$246 million, for a total of \$654 million. For 1991-92 the matching contribution was \$596 million, special payment \$225 million, for a total of \$821 million. That deals with the numbers in the first question.

The second question under pension payments: "What will be the effect of the delayed payment, and what will be the interest cost payable as a result of the delay?" Just so everyone understands the question, because there may be some who would not, we normally pay our public sector pensions every two weeks. For the teachers we normally pay it once a year, which we're continuing to do. For this year, 1992-93, we've decided for both of them that we're making no payment until April 1, which is the beginning of the next fiscal year, 1993-94, and in the case of the public service—let me get my question correct here: the effect of the delayed payment and the interest cost payable.

What that really means is that for 1993-94 the payments will be made in 1993-94, but the \$500 million that's been deferred—in the teachers, I'm thinking of now—

won't be paid in 1993-94. It will be a lag payment, which will be built into the system. I don't know whether that's the precise word either, but it is a delayed payment which will continue.

For the public service plan, the first quarterly payment will be in April 1993 instead of January. That will have interest of about \$600,000. For the teachers' plan, the \$500 million doesn't constitute the entire amount. I think the entire amount is \$666 million, and we've deferred \$500 million of it to the following fiscal year, so that will still leave \$166 million to be paid this year out of the total and matching contribution. That payment that will then be made on April 1, 1993, will include the interest we have to pay on that amount for those three months; the teachers aren't that benevolent, that they would give us an interest-free loan for three months. That amount will come to about \$13.3 million.

If you consider, because of the deficit and so forth, that if we had paid it out of borrowed money—Mr Phillips and I had this exchange in the Legislature one day—there is a difference in the rate we are paying them, because of the agreement with the teachers, than the amount we would be paying on borrowed money, if I'm making myself clear.

Mr Phillips: Yes. Which is lower?

Hon Mr Laughren: The amount we can borrow ourselves is much lower than the interest we're paying the teachers because of the agreement. I'll read this section because I want to get it right:

"Schedule 1 of the Teachers' Pension Act required that the government use an annual rate of 11.25% to credit interest on the contributions rescheduled from January to April. This is the average rate of the government debentures that have been held by the plan and it is the rate used to credit the government's matching contribution to the plan which are paid with a lag."

So there's no question that there's a price for that deferment of the \$500 million. If we look at the cost, the difference is what we really would be talking about, in my mind. The cost would be roughly—and it really does depend on how long a period of time you look at this—about \$2 million extra cost on the interest.

That I hope deals with that aspect of the teachers' and the public sector plan.

Mr Phillips: I haven't written down yet the actual payments in the three years of 1992-93, 1993-94 and 1994-95.

Hon Mr Laughren: I'm sorry, I didn't do that. I have it here, though, because that's the next question. For the public service first, for 1992-93, \$214 for the matching contributions and \$110 for the special payment, to take it up to \$324 million. For 1993-94, \$299 in matching contribution, \$117 in special payment, for a total of \$416. These are hundreds of millions; I have to remind myself of that from time to time. It impresses Gary Carr as well. For 1994-95, the matching contribution's \$314 and the special payment \$123, for a total of \$437. I have the next year too if you want it.

Mr Phillips: No.

Hon Mr Laughren: That's okay? For the teachers, the biggie. As I've already indicated, for 1992-93, \$166 will still have to be paid in this fiscal year, and then \$272 for the special payment for a total of \$438.

For 1993-94—this was what Sean Conway was talking about in the House yesterday afternoon and last night, if you recall; we're getting into those kinds of numbers that he was quite accurately depicting—for 1993-94 the matching contribution is \$695, special payment is \$349, for a total of \$1,044. That's \$1.044 billion. For 1994-95 the matching contribution is \$724, special payment \$376, for a total of \$1.1 billion.

Those special payments go on and on. The matching contribution, it is obvious, is the employer's side. The special payment is the one that surprised me when I first saw it, when I first started becoming aware of this whole issue of the catch-up and so forth. Anyway, those are the numbers.

Mr Phillips: I realize we may never get through all this, but just to simplify it in my own mind, we're borrowing \$500 million from the teachers' pension for ever?

Hon Mr Laughren: I see what you're saying: the lag in there.

Mr Phillips: We've decided to buy \$400 million or \$500 million that—

Hon Mr Laughren: Unless government decides it would like to make that up in any given year it felt flush.

Mr Phillips: And the premium we pay in interest is 3% or something like that?

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Hon Mr Laughren: No, it's more than that. It obviously depends on interest rates. Go ahead, Alan.

Mr Gary Carr (Oakville South): That's what created the problem in the first place.

Mrs Caplan: No, that's not what created the problem.

Mr Puttee: Could I just add one point of clarification? The 11.25 rate that has been mentioned and that the Treasurer mentioned and that will be the rate used to credit the plan for the deferral that is occurring between 1 January 1993 and 1 April 1993 won't happen in subsequent years.

First of all, it's important to understand that that rate is in the act really for another purpose: The government makes its contributions to the teachers' pension plan with a lag, and therefore for administrative reasons there's a lag built in there. Therefore there was a necessity in the act, in schedule 1, to have an interest rate that is used to account for that.

When the question of the three-month deferral was being considered, the legal advice was that the same rate would also apply to that three-month period. However, that's in schedule 1 of the act, which can be changed by the partners. The teachers' pension plan is now subject to a partnership agreement between the government and the teachers, and therefore there's been an agreement between the government and the teachers that the interest rate that will be used in subsequent years, should the government wish to again defer amounts as it has done this year, will be subject to negotiation. It hasn't been determined, but it will not be the 11.25.

Mr Phillips: The way you've structured this you've borrowed \$500 million for ever, and there is a premium you pay on that, the difference between what the government can borrow on the market at and what the fund will negotiate. That's all. I understand.

Hon Mr Laughren: That's right. We think the difference if we borrow long-term money is about 1.75% difference. So there's no question it's a difference.

The Chair: Okay, Mr Sterling—oh, you've got another?

Hon Mr Laughren: I'm in your hands because I don't know your time breakdown.

The Chair: We've just gone to 15 minutes. I went past the 10 because I thought you wanted to get as much answered as you could. So we now give the third party 15 minutes, starting off with Mr Sterling. Maybe if we don't have enough time to get back to some of these other questions on here—

Hon Mr Laughren: I'm not adverse to letting Mr Phillips finish his as long there's not a problem with the overall time. I don't care who goes first.

Mr Phillips: It may be of great help to me if there's written material the Treasurer could provide us with and I could just glance at it and then ask questions on it. Would that be better?

Hon Mr Laughren: I only have my copy here, but I could very quickly give you one of the questions while Alan Puttee, who deals with this matter, is here. We could deal with the fiscal stabilization fund very quickly, because I suspect that the third party would be interested in that as well. But it's up to you.

Mr Phillips: Maybe if we can go around, I can get to the asset sales. On the fiscal stabilization, the word in Ottawa is that you've had some communication on it, but I don't know whether that's the case or not.

Hon Mr Laughren: Absolutely. Whether that provides you comfort or not, I don't know.

Mr Phillips: I don't know what the communication is.

Mrs Caplan: What we want to know is if the communication provided you comfort.

Hon Mr Laughren: Yes, well.

Mrs Caplan: I think we've got the answer.

Hon Mr Laughren: I had some interest in this whole matter as well and was checking to see what kind of factors went into the application. I have a list here. The question was, "What is the justification for the two applications for the fiscal stabilization fund?"

There's no question whatsoever on the justification; it's an agreement between the provinces and the federal government. I really tried to say it as clearly as I could. This is not a tin-cup exercise. This is something to which we are entitled and which other provinces have successfully claimed in the past. At no time that I know of—and Alan has been much closer to it than I—has the federal government said: "You might as well go take a hike. You're not entitled to this." I don't think that's ever been indicated, because we are entitled to it. They don't deny it, but it is

complex and it does take time. We've been pursuing them and meetings do go on, and I think there was another meeting or is another meeting very shortly.

Mr Puttee: Yes, we have a meeting scheduled before the end of the month with federal officials. This is at the technical level, not with the ministers.

Hon Mr Laughren: Just so all members are sure and thinking the same way on this, when tax levels go down, tax revenues go down because of the economy going down, and provinces can put a claim in for stabilization purposes. What makes it complex is the components or the factors that make it up. It's not as complex now as it used to be because they have taken out some of the more peripheral components, but I'll give you some examples of what goes into it.

The biggies, of course, are the retail sales tax, the personal income tax and the corporate income tax. Those are the three big ones. It would be easy to compute the claim if that was all there was to it, except that the federal government, and I understand this, must take into consideration any tax changes that were brought about by the provinces themselves. In other words, you can't, for example, reduce your sales tax to zero and then put in a stabilization claim because your tax revenues are down. The previous government almost did it with the retail sales tax, but we won't get into that today.

You can't play that kind of game and run around the system. Any tax changes at all at the provincial level have to be factored in as to what would be the claim if we hadn't made that change. That includes the employer health tax; it would include the commercial concentration tax and it would include all tax changes. It doesn't include transfer payments from the feds to us, except that, because of the length between EPF and PIT, that is a factor. So with all those factors involved, we put in a claim.

The amount that we would be entitled to if there wasn't a ceiling was \$940 million—I think I've got this right—and for 1991-92, \$659 million. However, there is a maximum established, a \$60 per capita max where the federal government says, "Hey, we don't care how bad your economy is, there is a maximum here." I understand that as well. So if you apply the maximum amount to which we are entitled, it is \$585 million in 1991 and \$605 million in 1991-92. We submitted the 1991 one on December 20 and the 1991-92 one on February 24 of this year.

Part of the problem is that the numbers do move because of the lag in the collection of the federal government of our revenues, for example. That's why the federal government can't just sit down in a weekend and respond to us, because the numbers do keep changing.

Those are the two claims that are in there, and they total roughly \$1.2 billion. One reason I think there shouldn't be a problem of their paying it is that the claim, if you didn't have the cap, the ceiling in there, is so much greater than our claim that in fact they could probably—especially in 1991; not so much in 1991-92—pay it and not worry that they might be overpaying us, because the claim is so much higher than the maximum that's allowed.

Mr Phillips: Just two quick questions. Do you have copies of the applications?

Hon Mr Laughren: I haven't even seen the application myself, just these components that go into it. I'm not sure. I've felt uneasy from the beginning because the numbers change. As new numbers come in, the claim changes from the federal government's view. For example, with the PIT for 1990-91, they can continue to change the numbers till next March. For the next claim, the one we put in in February for 1991-92, the numbers can keep changing till 1994. I would be uneasy releasing it when the numbers keep changing. It's all part of negotiations with the federal government. It's not because I feel anything else about it. It's no big deal other than that. That's why I've been reluctant to say we should release it, because the numbers keep changing.

Mr Phillips: The budget changes all the time too.

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Hon Mr Laughren: Well, it's a little different.

Mr Phillips: Frankly, we're from Missouri. I'd like to think it's coming; I hope it comes, but I've been asking for it.

Hon Mr Laughren: I know you're on our side.

Mr Phillips: I'm on the side, but I wouldn't mind seeing the request. I'd like an answer to the question of whether you have had any communications from the federal government when they expect to deal with it and how much you should be counting on its share.

Hon Mr Laughren: I'll ask Alan if he wants to speak from the officials' end. I haven't had any communication from the minister as to when we can expect an answer, because I have talked to him about it. He said, "Well, whenever the officials get the thing resolved." That's what he said. If I were him, I'd probably say the same thing. When we sort it all out, get the numbers the way they're supposed to be, that's when you'll get it. I don't know whether the officials can say anything more than that either. I don't know.

Mr Puttee: I don't know whether there's too much to add, Treasurer. As you indicated, we submitted the first claim in December 1991 and didn't hear from the federal government for some time. As I indicated before, they have had a chance to review the claim. We thought their first comeback to us would be rather more rapid than it was. In any event, as I say, a meeting has now been scheduled for the end of this month.

Mr Phillips: Next week?

Mr Puttee: Yes.

Hon Mr Laughren: I would be uneasy about releasing them while the negotiations are going on with the feds. If I were them, I wouldn't appreciate it, I can tell you that.

Mr Phillips: In fairness, Mr Chairman, there's another question I'd like an answer on, but it may very well be that they don't get back to us. My colleagues have questions that I can get private or—

Hon Mr Laughren: Yes, we can put this stuff in a more legible form in writing, that's all.

The Chair: Okay. Mr Sterling and then our friend Mr Stockwell, who joined us today.

Mr Sterling: Mr Treasurer, I asked you yesterday, during the debate on Bill 16, what you thought about a deficit of \$9.9 billion?

Hon Mr Laughren: About what?

Mr Sterling: What you thought about your deficit of \$9.9 billion.

Hon Mr Laughren: That's not what you said.

Mr Sterling: That's what I asked you about.

Hon Mr Laughren: You said, "9,000 million."

Mr Sterling: No, I said, "9,900 million," which is the way I prefer to put it so that people can start to understand what we're talking about here. At any rate, thanks for the correction. Are you spot on?

Hon Mr Laughren: So far we're not off the spot. Mind you, it's early in the year. To be fair, it's very early in the year. The first quarter doesn't even end until the end of June and even then there's a lag on numbers as revenue numbers come in. Early indications were that it doesn't look that bad in terms of revenue.

Mr Sterling: Are you prepared at this time to revise any of your growth factors in your budget?

Hon Mr Laughren: The projected growth figures?

Mr Sterling: Yes.

Hon Mr Laughren: No. Do we have anybody here dealing with growth projections in the budget? Kevin Costante is here.

The Chair: Would you identify yourself for the purpose of Hansard, please.

Mr Kevin Costante: Kevin Costante, Treasury and Economics.

Hon Mr Laughren: The question is, is there any reason to change any of the growth projections that are in the budget document?

Ms Phyllis Clark: Phyllis Clark. Let me address the economic questions. We haven't yet revised our forecasts on the economy. There are quarterly numbers that come out in the gross domestic product, and we're waiting for the Ontario numbers that correspond to the recent release of the national numbers. After that time, we'll do a forecast on the economics side and look at our numbers and see how realistic they are.

When we did do the budget forecast we thought we were conservative, but realistically so. When we redo our numbers we'll do it with the same kind of caution and prudence. There may be some basis for revising the economic forecast, but we just can't tell that yet until we see the Ontario economic numbers, the GDP numbers, for the first quarter.

Based on anything that happens with that, this might feed through into revenue and expenditure changes, but at this time we think it would be unlikely that there would be major changes in the economic forecast.

Mr Sterling: I'm trying to find out about housing starts this year.

Ms Clark: You'll notice that on page 13 in what we handed out to you, there's a small graph that deals with housing starts and talks about housing as leading the recovery. There have been two or three changes that have made a difference in housing affordability. One of them has been the decline in interest rates as well as house prices throughout Ontario. Also, the technical or administrative changes that have to do with the CMHC as well as the ability to withdraw money from retirement savings plans to put into housing we expect will make a difference to housing starts.

We have had some improvements in that area already. I believe the numbers were about 56,000 as compared to 53,000 last year. I would just have to go back and look at my numbers, but that's tracking fairly closely to what we expected would be happening in that area.

Mr Sterling: I just want to talk briefly, before I turn it over to my colleagues, about your attitude towards free trade. The figures are now rolling in about what's been happening. In 1990, exports to the United States were up 4.6%, and I believe that's mostly in manufactured goods. Our surplus has increased in spite of the recession, Ontario being very much a manufacturing centre, and studies by University of Toronto's Institute for Policy Analysis, the Canada West Foundation and the Royal Bank of Canada have all concluded that the free trade agreement has moderated the impact of the recession and has contributed to Canada's economic growth. Do you want to comment?

Hon Mr Laughren: I think it would be hard to extol the virtues of the free trade agreement, given what's happened to the Ontario economy in the last two years. I don't believe that the large numbers of layoffs are unrelated to the free trade agreement either. I don't for a minute think you can pretend that hasn't been a factor. Imports are up as well. It's not as though you can pick out the odd number that will justify your argument and say that free trade is therefore good for Ontario.

I look at the dislocation in the workforce. I look at what's happened in closures and layoffs in manufacturing in the last two years. It is really stark. The number that bothers me the most—and I really don't think you can pretend this isn't partly a free trade agreement problem—is the number of closures that have been permanent as opposed to temporary or recession-caused, such as was the case 10 years ago. I remember the number; it stays in my head. I haven't looked at it in the last couple of months, but 10 years ago the number of layoffs that were deemed to be permanent was 25% of them. The last number I saw in the last little while was that 65% of the layoffs were deemed to be permanent closures.

I do not say that this is all because of the free trade agreement. Obviously, with the global competition thing, there's a restructuring going on out there because of technology and all sorts of things. In the middle of all this, while all this is happening, the free trade agreement is a federal agreement and there's been no adjustment program put in place, which I think Ontario had a right to expect and yet that was never delivered. So I would take issue

with you that the free trade agreement has somehow been good for Ontario.

Perhaps if I were sitting here in the middle 1980s and the free trade agreement were brought in, I would have had a little more difficulty putting conviction into my voice, if what had happened in the economy was the opposite of what has happened. But I have no trouble, I hope, putting conviction in my voice in saying that the free trade agreement has not been good for Ontario since it was implemented and that it's been at least partly the cause of a lot of our problems.

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Mr Sterling: I don't know how many independent economists are backing you up now, Mr Treasurer. I think one of the problems we hear from you time and time again in the House is about the opposition putting out rhetoric about how bad things are etc. I firmly believe that your willingness to dump problems on the free trade agreement is rhetoric in the wrong way and that probably it's doing more harm than good, and when you have such scanty proof that it's been a major problem.

Hon Mr Laughren: Epidemiological proof.

Mr Sterling: I know it's been a problem for individual industries etc, but some of our industries have flourished under free trade and some of the high-tech industries have flourished under the free trade agreement. Our aerospace industry has flourished under it. Our industrial machine and transportation equipment and chemicals have all increased their exports to the United States dramatically over the last little while.

At any rate, I am going to turn it over to one of my colleagues rather than debate it further.

Hon Mr Laughren: If I could just interject, I do have some compassion for Mr Sterling who is making a valiant effort to make a strong case for the free trade agreement on the heels of what's happened to Ontario in the last two years. I understand the difficulties.

The Chair: I want to intervene here. Mr Treasurer, it's very hard for Hansard to pick up when you're shaking your head, no, and shaking your head, yes.

Mr Chris Stockwell (Etobicoke West): He does that at the same time sometimes. First I'd like to make a comment with respect to the teachers' pension deferral money. I guess to be uncharacteristically blunt, Mr Treasurer, this question was put to you in the House about an extra cost for the deferral of this money. With all due respect, your answer was very different than today.

Hon Mr Laughren: Do you have a copy of my response?

Mr Stockwell: Yes, as a matter of fact it was just brought to me.

Hon Mr Laughren: I was afraid you did.

Mr Stockwell: You were suggesting at that time that borrowing the money from the teachers' pension fund was much the same as borrowing it anywhere else; today we find, not really. There's a service charge involved here. We call that a mortgage broker fee or a service charge of some kind, and the teachers nipped us for \$13.5 million additionally. I'd just like to go on the record that on May 12,

1992, when the question was put to you, I think, fairly, that wasn't your response, with all due respect. If you'd like to comment, go ahead, but I don't know what you could possibly say.

Hon Mr Laughren: So much for the answer I'm going to attempt. To be fair about it, and I know you're a fair-minded man from time to time, in the House that question came to me, I think, from your leader, Mr Harris, the member for Nipissing.

Mr Stockwell: Yes, it was.

Mrs Caplan: I'm surprised you remember it.

Hon Mr Laughren: Now, don't be partisan, Mrs Caplan. In the question—maybe you have it there.

Mr Stockwell: Yes, I do.

Hon Mr Laughren: I'd better be careful. What was implied to me in the question was that the total cost of the deferment would be what would be the extra cost, as opposed to building into consideration the cost of borrowed money anyway.

Mr Stockwell: I see. That's an interesting comment because it says "premium." So move on; I think the point was well made.

Hon Mr Laughren: Thank you.

Mr Stockwell: I've got a question on your taxes. I suppose the other rather offensive part I find about this budget is the manipulation of the numbers, and clearly they are—

Hon Mr Laughren: Massaging.

Mr Stockwell: "Massaging" may be a better word—massaging, manipulation—but I really find page 28 of this budget offensive, to be very blunt again, Mr Treasurer.

Hon Mr Laughren: Page?

Mr Stockwell: Page 28 of your budget, where you detail revenue changes. If you read this, you put up at the top "Impact of Personal Income Tax Changes for 1993," which is really odd considering we're talking about a budget that's basically made up in 1992. The question I have is, how did you reconcile in your mind that it was a fair and reasonable budget to, in some cases, triple the decrease the federal government had given to the working poor and the poor, and basically claw back tax hikes from people who are earning \$10,000 a year?

Hon Mr Laughren: First of all, there was a very small—we're talking about like \$10 a year for somebody. That's not a lot of money. We did bring in improvements in the Ontario tax reduction which protect low-income people from the Ontario tax system. When all the changes are brought in at the federal and provincial level, which don't take place until 1993, then that's not the picture you will get. The picture you will get for 1993 when all the changes are actually brought in is what's on page 28.

Mr Stockwell: So this was actually a conscious effort on your part, not necessarily on your department's or your ministry's part, to bring forward these figures in the 1993 chart.

Hon Mr Laughren: Yes.

Mr Stockwell: It never crossed your mind to maybe them put in the 1992 figures and let the people know exactly what they're going to pay in taxes? Again, the working poor and the poor are having their taxes increased. "Massaging" is the word you use; "manipulative" is the one I use.

Hon Mr Laughren: But the impact of the two budgets, the federal and the provincial, is not complete until 1993, right? That's why it was done that way.

Mr Stockwell: So you don't get the full effect of the reduction until 1993.

Hon Mr Laughren: Right.

Mr Stockwell: Okay. Do I have time for one quick question? Okay, Mr Carr.

Mr Carr: Just along the same lines, we heard during the pre-budget hearings from economists from all the banks and from various independents, and the one thing they said was, "Don't increase any taxes." Lo and behold, what we got was a massive tax hike, a percentage of the personal income tax, the surtax. Of course the people who were in the election campaign didn't think that at \$53,000 they were going to be whacked with a surtax, and you know that will impact substantially. The economists said, "Don't raise any taxes," and lo and behold, you did it. What was the rationale? When the economy is down, when all the economists say, "If you take more money out, it's only going to hurt the economy more," what was the rationale for these massive tax increases in those two areas?

Hon Mr Laughren: When we approached the budget, we didn't approach each section of the budget as a sealed compartment, so I hope you would appreciate that you approach the budget as a package, and that along with what I would refer to as modest tax increases, the surtax, especially as a package, the tax on the income tax, was more substantial than some people would have liked. I understand that but the rest of the tax package in the budget was extremely modest.

We did reduce taxes. The business community was also concerned about the level of business taxes on the business community, and which taxes did we lower? We lowered taxes on the business community, recognizing the fact that we're in a recession. That was a recession-driven decision to reduce the taxes for manufacturing, processing, mining and farming, so we reduced those taxes.

As well, we increased the current cost allowance, or the depreciation allowance, and reduced the tax on the small business community. You can't have it all your way out there. At the same time the people were telling us in the pre-budget consultation—we did our own pre-budget consultation as well as what the committee did—"For heaven's sake, show some vote of confidence in the economy by doing something on job creation." They said: "Don't let this recession spook you too much. Reserve the essential services of this province, especially in health and education." That was a very strong message we got. Nobody likes to have a deficit of \$10 billion. Who would like that?

1700

Mr Stockwell: Or \$14 billion.

Hon Mr Laughren: Or \$14 billion or whatever. I don't like it any more than Brian Mulroney likes it, but I'm not going to go to Hong Kong and denounce Brian Mulroney because his budget's over a billion—

Mr Carr: Just on that trip, you came back from the trip and now that you are able to help businesses with this fine tax that you didn't raise and I guess that—

Hon Mr Laughren: No, reduced.

Mr Carr: Okay, reduced, whatever you'd like to call it. Of course, you take it out of consumers' hands and that hurts businesses too.

Hon Mr Laughren: But we put that back into the economy. We didn't take it out and put it in our pockets.

Mr Carr: Let's look at the investment, since you mentioned Hong Kong. You made your whirlwind trip. We didn't have any announcements, out of all these trips, of any investment and what we're hearing from the international investment community is that people are saying that through a number of initiatives here in Ontario, right through the tax to the regulations, everything, the international people are not going to invest in Ontario. What concrete investment can you bring back and show us today of industries, companies rushing to come to Ontario, because there haven't been any announcements to date of international companies making substantial investments in Ontario.

Hon Mr Laughren: I wonder if you'd allow me to separate my trip from some announcements that have already been made. The trip I went on, and if you know me you know I don't even like travelling, so I don't see it as much of a perk, was what we call investor relations travel, visiting with the people who sell our bonds and the people who buy them. So I wasn't going to talk to the Industrial Bank of Japan about moving to Ontario. It was to talk about the virtues of investing in Ontario.

Mr Carr: What is the community saying about us?

Hon Mr Laughren: I won't give you a boosterism speech here, but I also spoke to the business community, the chamber of commerce in London, and to the investing community in Frankfurt as well. The questions I got, because it was a question and answer session every time, completely open, were, one, what about our Constitution? several questions on that, how we're coming on that; two, NAFTA, the North American free trade agreement, is that going to proceed or is it not? and three, the deficits we have, not just last year and this year, but in the next couple of years too, are we going to be able to get that deficit down the way we're saying we intend to? I mentioned the constitutional thing. Those were basically the questions. I'm trying to think if there was any other question.

By the way, and I'm not saying this to be partisan, I don't think I got a single question on the labour relations reform. Nobody is here who was with me, but I don't think there was a single question on that. At the time I was over there, we did an issue on Ontario Hydro which was \$2 billion that sold very fast. Mind you, at the same time, to put it in perspective, that was when the Danes had voted against the Maastricht community and so there was some nervousness around investment in Europe at that time too,

right or wrong. So it did make it a very attractive issue I think. So I did what I could in Denmark. That was the response.

Interjection.

Hon Mr Laughren: Yes. I spent enough time in opposition to know what the job is there, but if you get outside Ontario and you were looking at a map of the world and you were looking for a secure political and, dare I say it, economic environment, where would you put your money rather than in Ontario?

Mr Carr: British Columbia or Alberta.

Hon Mr Laughren: All right, that's another province, but this is a good place to invest. Canada is a good place to invest and Ontario is the big province that's doing the issues out there for selling bonds. It is not the kind of problem we sometimes focus on here—I'm not saying illegitimately. The opposition keeps governments on their toes.

If you talk to a company like Ford, which has announced about \$2 billion of investment in this province, that is a massive commitment to Ontario and a vote of confidence. I'm not taking credit for that, Monte, I'm just saying what they're doing.

Mr Monte Kwinter (Wilson Heights): If I get a chance, I want to talk to you about that because you're talking but you're not listening when you say you're talking to them. I was with Ken Harrigan five days ago. You should hear what he has to say.

Mr Carr: As was I.

Mr Kwinter: Yes, we were there together.

You keep trotting out this great investment by Ford. You got it by about that much. It was nearly gone after we had negotiated it.

Hon Mr Laughren: I'd rather look at what Ford does. What it's done is make a major commitment to this province.

Mr Carr: The plant was already on.

Mr Kwinter: The point is they're doing it in spite of you, not because of you.

Hon Mr Laughren: That's nonsense. You tell me then where there's a better place to invest than Ontario. Monte, there is no better place to invest than Ontario; you know that.

Mr Carr: You're using them. That plant was operational, the \$500 million.

Interjections.

The Chair: Wait a minute, Hansard is having a problem picking up all the voices at once.

Hon Mr Laughren: I'm not using Mr Harrigan; I'm not using Ford.

Mr Carr: Yes, you are using them.

Hon Mr Laughren: The fact is that there is no better place to invest in than Ontario. I wish you'd point to a jurisdiction that's a better place than Ontario to invest in. I don't know of one, and I'm talking as an objective observer too.

The Chair: Treasurer, we have to move on.

Mr Jim Wiseman (Durham West): I'd just like to comment that in the last three weeks I've had one particular investor who has decided to put \$28 million into Ontario. I think that's not inconsiderable money.

I'd like to go back to the whole discussion around the actuarial deficiencies and the unfunded liabilities in the pensions.

Interjection: Is this a conflict?

Mr Wiseman: I don't think it is.

There is a huge debate about and around the unfunded liabilities and what the actuarial deficiencies actually were. Different actuaries put out different numbers and then those numbers are used, if I'm understanding this correctly, to project what the unfunded liability will be in the long run. These different numbers, when you multiply them out and then extrapolate and compound them over years, can amount to huge amounts of money. Just to begin this discussion, I would like perhaps some discussion back about how they're arrived at and why you have confidence in them, and then I'll ask my next question.

Hon Mr Laughren: Alan, can you help me on this one? If I understand you correctly, it's the projected contributions, our matching contributions to the teachers.

Mr Wiseman: The teachers; the unfunded liabilities.

Hon Mr Laughren: I will ask either Alan or David Ezer, who is an actuarial, to help us out here.

Mr Puttee: If I understood the question, it had to do with the estimated size of the initial unfunded liability. The province required that an initial evaluation be done dated January 1, 1990. The estimate at that time—I didn't know we were going to get questions on this, so I'm going by memory—was I believe about \$4 billion. That was the estimate that was made shortly after January 1, 1990.

The legislation that had been passed in 1989 called for the initial unfunded liability to be written off over 40 years. It was recognized, though, at the time that, since all the data were not in, there would be a need to re-estimate to get the final value of the initial unfunded liability associated with the teachers' plan as at January 1, 1990. Therefore, in September 1991 I believe, the final estimate conducted by the board for the teachers, using their actuarial consultants, was filed with the Pension Commission of Ontario.

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A number of things had changed in the interim, which had the net effect of significantly increasing the size of the initial unfunded liability. The value that was in the valuation filed on September 30 was \$7.8 billion. Since again the legislation required those to be written off over 40 years starting in January 1990, that required a new higher schedule of payments over the 40-year period, and as well we had to go back to catch up the payments from January 1, 1990, to September 30 to reflect the higher estimate. When the Treasurer was speaking earlier, he made reference to catch-up payments and that is what they were. There are comparable numbers or companion numbers on the public service that I can also give you.

The Chair: Okay. Mr Sutherland.

Mr Kimble Sutherland (Oxford): Thank you. Mr Treasurer—

Mr Wiseman: I wasn't finished.

The Chair: We'll come back to you.

Mr Sutherland: One of the aspects you underlined when you presented the budget was significant capital investment. In the last couple of days we've had some announcements about strategic capital. Given that in spite of what Mr Sterling has said about the free trade agreement there's still high unemployment and a lot of these people were working in jobs that have been affected—trade may be picking up as a result of it or maybe not as a result of it, but there's still a lot of unemployment out there—I was wondering if you could give us some sense of when capital announcements will be made, and from the time that they are made how soon you see some of the projects getting under way to help alleviate some of the unemployment and certainly to help the construction industry.

Hon Mr Laughren: The budget has divided capital into two sections. One was the base capital in all the ministries for the regular building of schools, highways, hospitals and so forth. That was \$3.4 billion. On top of that we had—I don't want to inflame Gerry Phillips here—

Mr Phillips: I'm listening.

Hon Mr Laughren: I know, but I know how he gets going on this one.

On top of the \$3.4 billion that's in the base is another \$500 million of what we call strategic capital fund, and we divided it into different categories. That was the special capital fund. It was \$500 million for this year, but over five years it's \$2.3 billion. We want to treat this capital fund differently than capital has been treated in the past.

I think this is true of all government. This isn't directed at any one government. We would have done it the same way as well, and we did last year, the same way as has been done historically. But we think that because of the restructuring that's going on out there in the economy there's going to be a need for governments to be much more strategic as to where they put taxpayers' money in capital, that simply we have to make a distinction between the normal maintenance of the system and more strategically placed capital, and that's what this fund is for.

We've made a major commitment in a number of areas this year. You already heard some announcements by Richard Allen and by Ruth Grier, and there may have been another one. Marion Boyd as well made announcements on the utilization of this strategic capital. We want that to get out there as quickly as possible and we think we can do it. It's going to put emphasis, for example, on green industries or green projects, whether it's industry or not, and if it's in the manufacturing sector, it's going to make sure it goes into areas where there's a lot of high value added, where knowledge is a major component, in things like telecommunications and so forth.

That was the reason for dividing capital into two sections. We said in the budget that this fall we're going to have a capital report to the Legislature on an annual basis and we want to do that. I can't remember what month we're doing that, November or December.

Ms Clark: Yes, around that time.

Hon Mr Laughren: Around November or December. We're working towards that now so that there's proper capital reporting to the Legislature, quite frankly, more the way other jurisdictions do it than we traditionally have done it. We think there really is a qualitative difference between capital and operating, so we're going to do that for the first time this fall. We've started churning away at it in the Ministry of Treasury and Economics, and I think the clarity of it will satisfy our severest critics, which is why Gerry Phillips is smiling.

Mrs Caplan: I wouldn't count on it.

The Chair: Mr Wiseman again. Mr Sutherland has another question after you.

Mr Wiseman: I have to get back to the pensions. This is something that's bugged me for a long time, and don't cut me off after this question, because it's a short answer, okay?

The Chair: You have one question.

Mr Wiseman: My question will be multipart; it'll have A, B and C.

The Chair: I've got this hammer here too.

Mr Wiseman: I want to get back to the unfunded liability. I want to understand how we can have an unfunded liability, especially in the teachers' superannuation fund, which has been around since 1912, and how it could have grown to \$7.8 billion when in the past the provincial government has been the sole borrower of the money from the teachers' funds and from the pension funds. What was going on? Surely the science of actuarial projections is not new in the last four years. I'd like to understand the history of this and how we got to this debt.

Hon Mr Laughren: I'm going to defer to Alan.

Mr Puttee: I think there are two parts to the answer. The first is that a large part of the initial unfunded liability is associated with the decision to retroactively index the benefits of teachers. That decision was taken—I'm not sure of the date—in 1975 with the creation of the—

Mrs Caplan: It was announced in 1974 for 1975.

Mr Wiseman: Okay, thank you.

Mrs Caplan: It was unfunded when it was announced and it was retroactive. I just remember the briefing.

Mr Wiseman: How much of the provincial debt—

The Chair: That's another question.

Mr Wiseman: No, that was part of the question I asked. That was part B.

The Chair: You know, we came here to ask some questions of the Treasurer.

Hon Mr Laughren: It was subliminal.

The Chair: Okay, a short answer?

Mr Puttee: I think the second part of the answer would relate to why the initial unfunded liability was originally estimated at \$4 billion and how it got to \$7.8 billion. I think the quick answer to that is that there were significant changes in the demographic assumptions and that there were also benefit increases that had occurred in the interim,

mainly associated I believe, with an early retirement window that had been offered to teachers and taken up by many of them. So the situation changed and the cost of that had to be reflected.

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Mr Wiseman: How much of the current provincial debt is owed to the teachers' pensions?

Mr Puttee: I'm just not sure. You mean, what is the amount of the debentures with the province's name on them that are held by the teachers' pension fund? The teachers' pension fund has assets of \$24 billion—about; these are round numbers—and as of January 1, 1992, the value of the Ontario debentures was about \$18 billion. That will go down, since we're not issuing them any more.

The Chair: Mr Kwinter, I know you've got a question there.

Mr Kwinter: I just had one.

The Chair: Just go right ahead. I'll cut you off if you're too long.

Mr Kwinter: Thanks, I can hardly wait.

I'd like to just address this to the Treasurer and to his staff. The concern I have about what is going on is that we are getting two messages out there. Is this document an economic document or a political document?

Hon Mr Laughren: If you knew its genesis, you would agree that it's an economic document.

Mr Kwinter: What I'm saying is that there are mixed messages throughout this document and there are mixed messages in the message the government is sending out. I'd like to spend a little bit of time talking about free trade. Just by coincidence, you happened to provide me with a set of written documentation of some of the things I was concerned about, but let's talk about free trade.

As you know, I led our government's attack against the free trade agreement—not because we were against free trade. We were against the deal, and I think history will show that our concerns have been borne out, because the things the free trade agreement was supposed to address have not been addressed. We're still fighting the same battles.

But what we do have is a situation that I think, if you want to be fairminded and you want to talk about it, before the free trade agreement was implemented, 80% of all of the trade and goods and services between Canada and the United States was duty-free. Of the remaining 20%, the average tariff that was in place was 10%—that's the average—and that 10% is going to be reduced over a period of 10 years, some immediately, some over five years, some over 10 years. We're now into the third year of that agreement.

The point I'm making is that of that 20%—and we're now into the third year and we're reducing on average some part of the 10% of the tariff—surely that is not enough to distort the economy of Ontario or Canada. I mean, it just can't happen. The number is not big enough. So to keep blaming free trade for all of our woes—I'm not saying you can't blame it for specific situations, but I'll tell you, every time a plant closes it's blamed on free trade, every time a plant opens it's attributed to free trade, and in

most cases, free trade had nothing to do with it. That is a concern I have.

I have a concern where you talk about things in this document that are not borne out in what is happening literally in the daily press. Today there was a report of an economic forecast for Canada in which they say the growth in Ontario is going to be one of the lowest in all of the provinces of Canada, and they attribute it to the fact that we have the greatest concentration of manufacturing in Ontario, and that is in decline. The tax policies of this government—you may not agree with it. I'm just saying that was a factor that was attributed.

Let me just talk to you about a couple of things. Let's talk about this business confidence. Let's talk about Ford Motor Co. Ford Motor Co has been here for many, many years. In 1989—and I'm not trying to take credit for it; I'm just stating the facts—I negotiated with the Ford Motor Co to put that van plant into Oakville. We were competing with St Louis, Missouri, we had to come up with a package, and the package was done. It was like a fait accompli, and the first phase of it was the paint plant. Being politicians, we tried to get them to announce the van plant during the campaign, and they said no, they wouldn't announce it. They did not want to get involved in the politics.

Hon Mr Laughren: Good for them. They wouldn't let you use them.

Mr Kwinter: All right, but the point is that the decision was made in 1989 and because it's such a huge amount of money and because it takes time, it just happens that it's coming on track now, but to suggest that this is a vote of confidence in this government is absurd.

I want to talk about Glaxo, another one that you've mentioned. I want you to know that decision was made three years ago and we nearly lost it, not because of anything other than that the Ministry of the Environment—my colleague was involved in exactly the same battle that your colleague is involved in—designated as a potential site a site in Mississauga that was practically beside where Glaxo is putting this investment. They said, "There's no way we're going to put a pharmaceutical facility next to a garbage dump and we are not coming here." I had to fly to England to the head office and give them my personal assurance that the dump site would not go there, notwithstanding it was on the list.

The point I'm making is that to trot these things out as signs of business confidence and signs of support makes no sense. But I want to talk about this document that gives you an idea of where I have some serious concerns. You're talking about the things that are going to make growth and on page 7 you say the decline in interest rates over the past two years is a positive. You turn over to the next page, page 8, and you say the economy is going to be milder because of the high interest rates.

Hon Mr Laughren: Yes.

Mr Kwinter: Then on page 5 you say: "The US economy is gaining strength. Retail sales, employment, durable orders and consumer confidence have strengthened in recent months." You go over to talk about you're going to have a milder recovery because there is slow US and international

growth and ongoing structural adjustment and high debt levels. You're saying on the one hand it's going to be a great economy because all these things are happening and on the other it's not going to be a great economy because all these things are happening, the same things that are happening. You're catching them both ways. It's going to be good or it's going to be bad, but it's exactly the same factor.

But the most important thing is, and this is the one I want to talk to you about, you talk about the things that are going to be leading the economic recovery of Ontario. I agree with you; I have enough confidence in the inherent strength of Ontario. I say this as non-partisanly as I can: No government can screw up the future of Ontario. I just think it's too strong for that; I really believe that. But let me tell you, there are some very serious problems.

Number one, in your projections you think there's going to be a much greater increase in the housing sector. Figures are showing that it's not; no question, it's better than it was, but if you tell someone, "The bad news is you're going to drown in 50 feet of water. The good news is we've corrected that and you're only going to drown in 30 feet of water," the point is, you're still going to drown. The housing sector is not rebounding the way it has been projected.

You have a situation where the automotive industry, which is supposedly the industry that's going to lead us out of this recession, has got some very serious problems on the horizon. The problem we have at the present time in Ontario, where we build most of the cars in Canada, is that we build nearly one million cars; one million is the total, but that includes Bromont, Quebec, and it includes the Volvo plant in Nova Scotia. But of those cars, close to 90% are being exported to the United States.

Mexico, which is currently building 600,000 cars a year, has announced that it will by the year 2000, which is only seven years away, be building 4 million cars. I can tell you, those cars are not going to be driven by the Mexicans, they're going to be driven by the Americans and they're going to be driven by Canadians. Somewhere along the line we are going to have to make sure—and this is going to be critical in the NAFTA negotiations—that we at least maintain our share, but we are going to be under incredible pressure because it isn't the assembly operations that are going to be critical, it's going to be the parts suppliers that are going to go where the major assemblies are going to take place.

The concern I have—and I refer to this, like high blood pressure that doctors refer to, as the silent killer. If people have it, many people don't know they have it and suddenly they have a problem. We have a problem with things like the amendments to the Ontario Labour Relations Act.

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You say that when you go out to Japan or where you go—I have to say I travel as well, far more than you do because I don't mind it—but the concern you have is that when people look at jurisdictions they take a look at all the competing factors and they make a decision. Sure, when you say, "What better place than Ontario?" there are places that are comparable. There are tradeoffs. At one time our

health care system was a tremendous asset. That is under attack. Our hydro certainly was an area in which we were very competitive and that is certainly deteriorating. So we have a situation where I can say to you—and as I say, this can be proven—the Ford Motor Co plant would not have come here today. St Louis, Missouri, would have got it if we'd started clean and we're dealing in the same environment, because they had to go and compete against them and they made their pitch based on a whole range of—

The Chair: Mr Kwinter, can you come to the question?

Mr Kwinter: I'm trying to set the groundwork to say to you that these are concerns I have. These are concerns that are going to impact on our economic viability. These are concerns that are going to impact on your ability to meet your targets, because collectively, we as a province have taken on some fairly substantial debt. We make projections based on certain premises. I am concerned about whether or not those targets can be reached.

If you do it on a percentage basis—when you take a look at your first budget, and everybody yelled and screamed about this deficit, we had demonstrations out and people were taking to the streets.

The Chair: Mr Kwinter—

Mr Kwinter: Just one second. I think this is important.

The Chair: Yes, but he was going to stay till 5. I've been able to persuade him to stay here till 5:30, and we have to go to the House at a quarter to six.

Mr Kwinter: The point I'm making is that in that one year there was a \$1-billion adjustment.

You've got projections going over the next three or four years, and my concern is that those numbers are going to grow because of the pressures. There are pressures every day. Yet there are also pressures going the other way, in a negative sense, on your ability to raise the revenue to service that kind of debt and to provide the kinds of services we Ontarians would like to have and what you, the government, would like to provide. So my question: I'm sorry I went so long, but I tried to portray an environment that we're working in and get your reaction as to what you think we're going to do about it.

Hon Mr Laughren: I actually enjoyed your comments and I share some of your concerns. You'd have to live in some kind of dream world not to be concerned about some of the things you've mentioned. I'll try to keep some of those. Let me go through them quickly. I don't want to use up everybody's time.

On the fair trade—that's a good slip of words; actually fair trade might have been better—on the free trade agreement we've never said that free or freer trade is bad in itself. What we've said is, just like you said, that we think this is not the right agreement. Because we recognize that with the globalization that's going on out there, you can't build a wall around any jurisdiction. The abandonment—and you can say this is partisan if you like—by the federal government of any adjustment policies was almost breathtaking. I believe that so fundamentally. Guess who picks up the entire tab on that? It's the province. You know that. I don't have to belabour it.

I think I'd like to leave some of the forecasting stuff to Phyllis. I've got a new list of companies that have come here recently. I don't pretend that Ford invested that \$2 billion because it liked this budget or anything like that, but I do think that if it were really overly concerned about Ontario it could pull the plug at any point.

At any given point they could say: "We don't like what you're doing. The deal is off." I'm not taking away anything from the work you did. I know that when you were the Minister of Industry, Trade and Technology you were very aggressive in pursuing investment for the province. I have no quarrel with what you've said in that regard. In terms of Ontario remaining competitive in the health care sector, I looked at what it costs an employer in the United States. I believe it was an automobile employer.

Mr Kwinter: Lee Iacocca said it was \$700.

Hon Mr Laughren: No, it was C\$4,200 to pay the health care costs for an employee if that was in the contract or arrangement, right? For Ontario it was around \$650 or \$700. That's an enormous competitive advantage. In terms of Mexico, I really do think we're talking apples and oranges when we talk about competing with Mexico. I don't think I have it with me, but I have a list of companies and I haven't used this list, because it's a bit of a perverse satisfaction to have companies move out of Mexico back to Ontario.

Mr Kwinter: I saw that article.

Hon Mr Laughren: I'm sure you did. There is some of that going on. Largely it's because of the skills and the abilities of the labour force here. It's not because they like you or me—well, maybe you; they're not particularly fond of me.

Hydro is something we do have to keep a very close eye on. The rates have gone up and they're going to go up again. You don't stop in midstream—it's something like turning the Queen Mary around—with Ontario Hydro when everybody acknowledges we have to pay for what's been built. When projects like Darlington come on stream, the rules say that's when they go into the rates. We can't do anything about that at this point. Shutting down Darlington wouldn't solve the problem either; it's built.

I think we're on the right track with our conservation strategy. I'd like to see more use of the non-utility generating plants, but that's tough when you've got excess capacity in the system. It is very difficult.

Mrs Caplan: You won't have excess capacity for long.

Hon Mr Laughren: I'm telling you, they sure have it now.

Mrs Caplan: That's only because of the recession.

Hon Mr Laughren: Yes, that's right, that's the main reason but I'll tell you—I could be out on my numbers here—there are something like 30 or 40 non-utility generating proposals out there now to feed into the grid. I think it's a great development that's happening out there, because inevitably there's some other benefit to what they're doing as well, not just feeding into the grid.

In one sense I agree with you on Ontario's ability to compete and prosper regardless of whatever government is in place. That may sound a bit too complacent. I don't mean it that way.

Mr Kwinter: I didn't mean it that way either.

Hon Mr Laughren: No, I know you didn't. I really do believe that as long as we keep our infrastructure up to scratch—and by that I mean our transportation system, our educational system. We've got to keep it up to scratch and we've got to keep pouring money into post-secondary. I think our moves on training are long overdue. It's the right thing and the federal government is cooperating on it. I think they'll be more responsive to community needs.

I don't expect you to agree we're doing everything right. I really do think we are starting to behave more strategically in terms of the way the economy is changing on us. I hope we are; if we're not, it'll pass us. It'll go by. I worry quite a bit about that, because I really think—and this isn't a reference to your comment—the days of Ontario having so many natural advantages that we don't have to worry about it are over, I suspect, to a degree.

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It's a very competitive world out there. We've got to be there. We actually have a committee that deals with strategic investments and so forth, and we're trying to be really thoughtful about which sectors we support. That was one reason we put in the budget the sectoral partnership fund of \$150 million. That's part of that strategy and is designed to encourage industries within a sector to work together when any one company can't do it by itself. I think that's being strategic.

I'm cautious as well; I'm cautious on the projections. There's only the last number of projections I saw before the one you referred to, where other forecasters had us up with greater growth projections than we did. Some of them I thought would be lovely, but I didn't think they were terribly realistic, so we'll see.

We have nothing to gain with unrealistic projections. I think they're embarrassing when you don't achieve them. You understand that. I hope our projections are not optimistic; I hope they're realistic. It would be nice to exceed them. Phyllis, did you want to deal with something?

Ms Clark: Just a few comments on the nature of the message that's in the economic report we gave you, the difference in interest rates, I think, where we talked about real interest rates being high compared to nominal interest rates being low. The impact of low nominal interest rates is the amount of moneys that frees to put into consumers' hands to buy things with their disposable income.

What we try to say here is that we expect recovery. We can see signs of that coming now, but we don't think it will be as strong as the recovery we had when we came out of the 1982-83 recessionary period. We're forecasting, on the next three or four years, growth that averages about 3.7%. When we emerged from 1982-83 we had much higher growth. We had growth that averaged in the high fives-low sixes at some points. There are several structural changes that we think have taken place in the economy, including the free trade agreement, GST and other things that have had an impact on growth. That's why we expect more moderate growth, but we do expect growth.

That's the nature of the comments and the individual items you referenced in terms of autos and housing. We

did point out the cross-counter flows you've got in those areas, but autos are still very strong. Exports to the United States are up, and the share of Canadian exports and the Canadian share of the US auto market have increased. It looks as if they will continue to increase throughout 1992. We are moving very strongly in that period.

It's the same in housing. We're on base as far as our forecast is concerned. With that, we've had an increase in the first quarter of 1992 over the last quarter of 1991, so we're fairly tracking on that.

In terms of comparative growth with other provinces, there's a group of forecasters that does cross-Canada comparisons. We think we're going to be among at least the top two or three growth areas in Canada in the next three to four years.

Mr Kwinter: I just want to put something into the record, because I think it's important that it be on the record.

The Chair: Okay, but then I'll let the Treasurer close with his remarks.

Mr Kwinter: The comment on Mexico: We should know—and this is verifiable through George Peapples, who I know was on the Premier's Council, so you can talk to him—they have four engine plants in North America. They have one in St Catharines, two in the United States and one in Pueblo, Mexico. They are all clones of each other. They practically used the same blueprints and built them. If you speak to George Peapples, the president of General Motors, he will tell you the most productive, most cost-efficient plant they have turning out the identical product is in Pueblo, Mexico.

There's a sort of canard that people keep referring to: "Oh, well, you go to Mexico if you want to do hand work and cheap things. They don't have any technology. They don't have any skilled workers." I just want to let you know that this is a high-tech plant and that in the General Motors family of engine plants it's the best they've got.

Mr Sutherland: Just on that note, since we're getting closer to what looks like a North American free trade agreement, maybe it should be one of the future issues or near-future issues that this committee begins to look at what the implications of NAFTA may be for the province.

The Chair: You see, Mr Kwinter, being the Chair here, since I worked in St Catharines, I'd have to say St Catharines did a better job, but that's my opinion. Mr Treasurer, any final remarks?

Hon Mr Laughren: Thank you, Mr Chairman. I've enjoyed the exchanges because—I'm not saying this to butter anybody up—they've been thoughtful and not particularly partisan either. As you might expect, I am concerned about projections to the future and whether we're going to have the growth we think we're going to have because it makes it very tough on a lot of people if we don't. I believe we've started out of the recession and we're going to recover all right.

I really do get a lot of comments when I'm talking to people, other than people who stand back a bit, about Ontario being a great place to live and invest. I have had a lot of comments—I could read them out but it would be seen

as too self-serving for words—made by the business community following the budget. I think this year it was a much better reception than last year. There was an appreciation of the acknowledgement to the business sector about the recession and its depth and the reduction in taxes to the business community. I think there was a real sense of that.

As well, the business community is quite complimentary about our attempts to look ahead and they talk about our commitment, for example, and strategic capital. They comment on that and say it is the right direction. They don't compliment me on the amendments to the Labour Relations Act, of course not; they don't compliment me on increases in the personal income tax, of course they don't, but I think that, on balance, the business community feels we've done some of the right things.

I don't like the barrage that occurs out there from time to time. It's a free country and a free province; people will do what they will with billboards and demonstrations. I've been part of those—not billboards, but I've certainly been part of demonstrations for a long time and so I understand that. My only concern always has been to make a distinction between people disliking and attacking the government as opposed to the province, because I think there's an enormous risk there for the very people who themselves have a lot to lose. It's always been my pitch to the business community that you don't have to love us, but keep your faith in the province. I didn't use your words, but I think yours were quite appropriate, Monte. Anyway, I enjoyed the afternoon.

The Chair: Thank you, Mr Treasurer. I notice you're about an hour and 15 minutes over your time, and we appreciate your presence at this committee.

Mr Kwinter: Mr Chairman, I want to personally thank the Treasurer for coming in and spending the time with us. It was very helpful.

Mr Phillips: Can I get an answer? Not now, but—

The Chair: A written answer?

Mr Phillips: My number two question, maybe just meet with somebody for that?

The Chair: Two and 3. Okay.

Mr Phillips: I'll just phone your office, I guess.

Hon Mr Laughren: Okay.

Mrs Caplan: Mr Chairman, I think it's a very productive use of the committee time to have the Treasurer here to discuss the economic issues and forecasts and perhaps to not only ask questions but to have a little bit of the kind of debate that we have. I hope the Treasurer will come back because businesses are making decisions today which are going to affect the long-term projections of the province. Many of the policies—fiscal, economic as well as social—are having an impact on some of the decisions. If we can have that discussion in this forum, perhaps some of the comments will be helpful to those making decisions that are going to affect the province in the medium and longer term.

Hon Mr Laughren: Thank you.

The Chair: This committee is adjourned.

The committee adjourned at 1749.

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- *Klopp, Paul (Huron ND) for Mr Jamison

***In attendance / présents**

Also taking part / Autres participants et participantes:

- Owens, Stephen (Scarborough Centre ND)
- Stockwell, Chris (Etobicoke West/-Ouest PC)

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service



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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 8 October 1992



Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Jeudi 8 octobre 1992

Standing committee on finance and economic affairs

1992 Budget

Comité permanent des finances et des affaires économiques

Budget de 1992

Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 8 October 1992

The committee met at 1546 in committee room 2.

1992 BUDGET

The Chair (Mr Ron Hansen): Okay, I'd like to bring this committee to order. I'd like to start off by giving a little bit of background on why we're here today. I received a letter on July 22 from Mr Phillips, and I'd like to read out the letter to give a little bit of background to some of the members who are new on the committee and maybe refresh some of the members, since it was a while ago. It says:

"Dear Mr Hansen:

"This letter is to formally request that the finance and economic affairs committee request the Provincial Auditor to give the committee his formal opinion on how the government has chosen to report its budgetary figures in the 1992-93 budget.

"My concern was dramatically heightened when Treasurer Laughren informed the finance and economic affairs committee on June 25, 1992, that the government had been required to pay at least \$2 million more in interest payments than necessary in return for the teachers' pension agreeing to 'rescheduling' a \$500-million payment due January 1, 1993, to the first day of the next fiscal year (ie, April 1, 1993). The only reason to do this was to show the deficit \$500 million lower (ie, to get it below \$10 billion). This will cost the taxpayer at least \$2 million in unnecessary expense (see exhibit I: minutes of the finance and economic affairs committee meeting of June 25, 1992).

"My leader, Lyn McLeod, has consistently expressed concern about the accounting practices that the government has used in its 1992-93 budget. We tried to get the Provincial Auditor to investigate our concerns (see exhibit II: open letter to the acting Provincial Auditor, May 4, 1992).

"The Provincial Auditor said that he would be happy to, but required the Legislature to ask him (see exhibit III: auditor's response, May 8, 1992).

"We then asked public accounts committee to have that happen (see exhibit IV: motion put forward by Mr Greg Sorbara).

"The public accounts committee refused because the NDP majority rejected our request in spite of assurances by Treasurer Laughren that he was quite prepared to have the Provincial Auditor examine the budget (see exhibit V: minutes of the public accounts committee meeting of June 18, 1992).

"While the unnecessary expenditure of \$2 million has upset us most recently, as you can see from the attached exhibits, we believe there are several matters of major concern.

"In closing, I look forward to having an opportunity to raise this matter with the Provincial Auditor. I await your reply.

"Yours sincerely

"Gerry Phillips

"MPP, Scarborough-Agincourt."

A copy went to the clerk, Todd Decker, and to the Honourable Floyd Laughren, Treasurer of Ontario.

Since we were on the break at that time, I talked to Mr Phillips and I said the first chance that we'd have when the House came back. I had talked to the clerk, Todd Decker, and the response that I got from him at the very beginning was:

"This is to get your direction on when the committee should meet.

"You asked me to arrange for the Provincial Auditor to be scheduled to meet with the committee to discuss the issues Gerry Phillips raised in his letter to you dated July 22.

"As you probably know, the public accounts committee dealt with selecting the new auditor this summer and made their recommendation on Monday of this week. In the meantime, there is no Provincial Auditor, so Gerry Phillips's request really can't be carried out just yet.

"Is there something else the committee could consider at a meeting, or should we just hold off for now?"

I'll read the letter that was sent to Mr Jim Otterman.

"Dear Mr Otterman:

"At the instruction of the committee's subcommittee and the Chair, I am writing to request that you attend at the committee's meeting at 10 am in committee room 2 of the Legislative Building on Thursday, October 8, 1992.

"The purpose of this meeting is for the committee to discuss with you the issues contained in the letter of Gerry Phillips, MPP, to the Chair of the committee, a copy of which is attached.

"It is the intention of the committee formally to request that you prepare a response to the issues raised by Mr Phillips and perhaps to solicit from you the methods that might be used to respond to these issues and the possible time frame involved.

"Todd Decker, clerk of the committee."

We had a subcommittee meeting last Thursday and at the subcommittee meeting we made arrangements for the auditor to come, agreed by all three subcommittee members. Another letter came from Todd Decker to me. It said:

"I made arrangements for the acting Provincial Auditor to come into the finance and economic affairs committee at 10 am this Thursday. However, he has a previous commitment to meet with the public accounts committee that same morning. I would suggest that we simply reschedule the meeting for Thursday pm, at which time he is available."

That was Todd Decker. So this is the reason we are in an afternoon meeting: We didn't meet this morning. That gives everybody a little bit of background on where we're at today. I would like to welcome Mr Otterman to the committee here. I see he's just sitting there, waiting to answer questions. I know the first member sitting in the room here waiting for a response was Mr Phillips, so I

think we should get on. Would you introduce your colleague also? I see you have some other colleagues. As they come forward, if you need some help, would you just introduce them to the committee? Go ahead, Mr Otterman.

Mr Jim Otterman: Thank you, Mr Chair. With me here at the table is Ken Leishman, our executive director, who is our resident specialist on the public accounts and the accounting practices of the province of Ontario for our office.

The Chair: I want to take some direction from the committee here on how we would like to wind up asking questions of the auditor. Do you want to go for 15 minutes and go to each party, and then see how much time we've got and go back again?

Mr Gerry Phillips (Scarborough-Agincourt): Just so you know what initiated this and what I'm looking for out of this, when the budget came out, we had several concerns about the way the finances were reported. Fundamental to it all is that I think the public expects to get an accurate and fair assessment of the finances of the province. If it were a private corporation on the stock exchange, there would be a consistent way it would have to report so the public could see, in a consistent, fair manner, how the corporation was doing.

We raised several questions around the accounting practices in the budget. What I'm looking for—this is, I think, a role of the Provincial Auditor: to objectively advise the Legislature on the reporting of the finances. We have, I hope, the right to ask the auditor to give us those opinions.

Specifically, my leader raised three major issues. One was something called the rescheduling of cash payments, on page 73. My view is, that's not a rescheduling of cash payments; it is a loan. The government has borrowed \$500 million from the teachers' pension. In fact, the Treasurer, in a document, calls it a loan. If that is the case, the budget should have reported it as a loan and the deficit would have been \$500 million higher. I would like the auditor, not necessarily today, to inform the committee of whether, in consistent accounting practices, we are accurately, consistently reporting that as a loan.

As I say, I was further worried by this because we are required to pay 11¼% interest on the \$500 million. If we went to the market and borrowed it, which is what really should happen, treasury is paying less than 8% now for money. The only reason we're borrowing the money from the teachers' pension is because it will allow us to call it a rescheduling of cash payments, not shown on this year's books, put it on next year's books and, in my opinion, artificially understate the deficit by \$500 million. That's my opinion and I'd like the auditor's comments on that now or in the future.

My second major concern is, in the budget, there is, under revenue on page 81, something called "Payments from the federal government. Other." There is approximately \$1.2 billion in there, a revenue from the federal government called, "Fiscal stabilization money, \$1.2 billion." I don't think there is a hope in heck of that money coming this year. If this was a private corporation and this

was an accounts receivable, there wouldn't be an auditor in the world who would ever sign the books and say, "This is a legitimate accounts receivable due and payable this year." The federal officials, when the budget came out, said: "They're not getting that money. I don't know what they're talking about."

That would be my second point: How can we determine whether that is a legitimate source of revenue to be put into the budget and on what basis it can be put in there? As a matter of fact, as you know, I think, I've asked, dating back from December, for the application of the fiscal stabilization. I said, "Just show it to us." Remember, I think it's in our notes here, each time we've been told we can't see that.

That's my second major question. It is a huge amount of money. As I say, if this were an account receivable, you would hear back from that person saying: "I'm sorry. Tell your client they're not getting the money this year."

The third issue is, again on page 81, you'll see something called "Sales and rentals," in 1991, \$97 million; 1991-92, \$93 million; 1992-93, \$1.2 billion. This is two things. One is the plan to transfer a bunch of government land over to the Ontario Land Corp and get the Ontario Land Corp to give us back the money and, secondly, what a cynic might call a kind of tax scheme whereby we're going to sell trains and buses and stuff to offshore investors who will give us the money and then we'll repurchase the things over a 20-year period. That's just the first of the schemes. This is the tender here, the GO Transit request for proposals.

That's for almost \$1 billion of revenue this year. I think that's just the first of the schemes. I think we're going to see a whole flood of similar things like selling off government buildings and leasing them back, that sort of stuff.

Those are my three major ones. As I say, I don't know where else to turn but to you and your staff to give us advice on whether this is legitimate, consistent accounting, and whether this accurately reflects the finances of the province and fully discloses to the public on a consistent basis or not. You can tell by the tone of my remarks that I don't think the public is being accurately told the fiscal situation of the province.

These are the specific issues I think we should be dealing with. There then is a longer-term issue that I don't want to cloud, but I think a role this committee might play is in helping to determine how the finances should be reported on a consistent basis that is most helpful to the public, because this isn't the only government that has ever done things like this.

1600

Mr Kimble Sutherland (Oxford): What was the last government to do that?

Mr Phillips: I think you'll see the provincial auditor in either Alberta or Saskatchewan has just issued a very major report on similar matters.

Mr Sutherland: I thought you meant here, Gerry.

Mr Phillips: I suspect in the past each government has advanced payments to pensions and what not, but my point is I think the public has to understand what we're

really dealing with here. Many people in the investment community said, "Oh, the deficit's under \$10 billion; maybe that's a step forward." But if it's artificially under \$10 billion because of just pure accounting trickery, then it isn't really accurately helping the people understand the climate in the province.

I would appreciate the committee instructing the auditor to give us his opinion on the three major areas I've raised and whether that is accurately and consistently reflecting the books of disclosure to the public, and if it isn't, how should it be reported? If it is, I'll understand.

The Chair: I take it that's the question we're here for, but I'm just going to go around. Mr Stockwell, is there an additional question you'd like to put out, or would you like it to unfold as the answers come in from Mr—

Mr Chris Stockwell (Etobicoke West): No, I'd much prefer to hear the answer.

The Chair: Same thing, okay?

Mr Sutherland: No, no. I have a couple of comments. First of all, while the auditor's office has been asked here, I'd just like to get clear, because I don't know for sure. I mean, I have some familiarity with the office of the auditor, but I'd like you to explain, first of all, the official mandate of the auditor's office and how you see these questions fitting into that mandate; then maybe some question about what the priorities of the office are right now and, in terms of how this fits into the priorities of the office, how soon you think responses could be given.

I'd like to make one other note. Mr Phillips brought up the question about the GO train rolling stock and seemed to be questioning whether that was an appropriate procedure or not. He should be aware that the reason that is allowed is under federal law. They allow that at least for the airlines as well, so it's not an unprecedented practice here in this country.

The Chair: I believe Mr Kwinter has a submission.

Mr Monte Kwinter (Wilson Heights): I'd like to comment on the remarks that were just made. I'm not saying they're intentional, but if we were to follow those remarks, it would totally misdirect what we're here to talk to the auditor about. We're not interested in finding out what the role of the auditor is and how he sees his priorities. We're saying, "Here are some concerns that we have." If he wants to say to us, "That really isn't my purview to comment," that's fine, but I don't think we should be spending our time delving into the role of the auditor.

The Chair: I think he was asking for a summary.

Mr Sutherland: With all due respect, that's what I'm really getting at in terms of whether it's in the purview. I know the auditor comments on a lot of things in his report. Usually it's on the actual spending issues, so that's really I guess what I was getting at.

Mr Kwinter: Really all we want to do is ask the questions and he'll tell us whether or not he can comment on them.

Mr Sutherland: Okay. That's fair enough.

The Chair: Mr Otterman, maybe you could comment on the questions put out so far. Start off with Mr Phillips's

questions that were put before the committee, since they were the first ones in.

Mr Otterman: Okay. However, in doing that, I'm going to lead pretty quickly into the mandate, which was raised in the latter question. I think we have to clarify for the purposes of this discussion today that the Provincial Auditor does not have a mandate to audit the budget or what is in the estimates. We have the responsibility to audit the financial statements of the province after the money is spent, after the accounting is made.

However, having said that, when Mrs McLeod wrote to me previously, requesting that we do some work in this area, I did say I would be pleased to attend at either the public accounts committee or any other legislative committee that may wish to ask questions about the accounting practices as they are currently conducted. In doing that, I guess we could put a hypothetical thing on this: that it's a year later from now and you can ask whether these events, if they occurred, would be accounted for properly. That would be a kind of starting point. We'd be pleased to discuss, within that framework, the three items Mr Phillips mentioned: the deferral, the equalization fund and the sale of assets.

Mr Phillips: What is called in here a rescheduling of cash payments but the Treasurer calls a loan: Under normal accounting practices, would you not be required to show that as a loan?

Mr Otterman: The key thing is the basis of accounting, which is a cash basis of accounting. In the cash basis of accounting you wouldn't record that loan until you actually received the proceeds. Similarly, on a disbursement you're not going to record the disbursement of whenever it's deferred to, that date, until you make that payment. What you have to compare here is the accounting basis, which is cash basis versus some other form of accounting basis, which is commonly referred to as accrual basis of accounting or modified versions thereof.

That's where I thought that by agreeing to come to the committee, this would be of some assistance. In much of the debate that's gone on so far, I see this difference coming up about accounting practices, which suggests to me that perhaps the cash basis of accounting versus the other forms of accounting, which are normally found in the private sector, are causing some misunderstanding.

If it were an accrual basis of accounting, that would have to be set up as a liability; there is no question. But it's not; it's a cash basis of accounting.

Mr Stockwell: So what do you set it up as?

Mr Otterman: You don't record it at all. There is no record until it's actually paid, which would be the April 1 period.

Mr Phillips: I think if you get in behind it, the Treasurer said they have lent the money from the teachers' pension, just as they would have lent the money from—and they've given them a note that they will pay 11.25% on it. If they had borrowed the money from a bank, you would have had to show that as a loan.

Mr Ken Leishman: There's no cash inflow. Based on the modified cash basis of accounting that the province

follows right now, if its loans are set up as payable as a result of a cash transaction—

The Chair: Could you speak into the mike, please?

Mr Leishman: Yes. Here, there is no cash transaction. They have just agreed to defer the payment of that, which was originally due, I believe, on January 1, until April 1. That being the case, under the cash basis of accounting, that isn't recorded as an expense until April 1. It's a variation in reverse of what has happened the last three years in a row. There have been preflows; now this is a deferred flow. In essence, it's the exact opposite, which is allowable under the modified cash basis of accounting.

There is a question there, if you sit back, that it's in accordance with the accounting principles of the government. But more and more one might have to sit back and think, are these accounting principles appropriate?

Mr Phillips: The Treasurer has said it was a loan, and I can understand the rescheduling of the cash payments. But in my opinion, when he said it was a loan it meant they had essentially paid the money to the teachers' pension and reborrowed it at 11.25%.

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Mr Leishman: No. I think the Treasurer headed it up in his budget as a rescheduling of cash payments. So all they have done under the cash basis of accounting is deferred that payment, as well as more minor payments to the public service pension fund, from January 1 to April 1. That being the case, what would normally be charged as an expense during the fiscal year ended March 31, 1993, will not go through as an expense until the fiscal year beginning April 1, 1993.

Mr Stockwell: That's shameful.

Mr Phillips: How do we get at the abuse of taxpayers' money? We're going to be required to pay 11.25% on this. Just for the optics of rescheduling the cash payment, we will spend over \$3 million in extra interest payments when we could have raised this money in the open market for \$3 million cheaper.

The Chair: I don't know if that's a question for him to answer, because I think it's a treasury decision and he's the auditor. I don't know: Is this your role?

Mr Otterman: It's their decision. If you look at it, I think it has a net cost to the Treasurer of—I forget how long the period was, but it's a difference in interest rate of almost 2%.

Mr Phillips: More than that.

Mr Otterman: However, that's no different than if you preflow the money, which has been done in earlier years. There's a net effect of that. It's really a decision of the government, how it wants to spend the money and when it wants to spend it. So really, from a value-for-money point of view, I think it could be questioned and looked at that way, and I think it would be clear it cost them more interest expense. However, there are probably other transactions which gain them interest revenue the other way.

Mr Kwinter: Mr Otterman, you just raised the point that I wanted to raise. That was, you are empowered to do

a value-for-money audit. You do it all the time. You could quite reasonably, if you were auditing the budget—which you don't do, because that isn't in your mandate—point out the fact that there was a cost that could have been avoided had they gone another route.

The question about the budget—and I take your point about how the government has the right. It certainly, whether it's an accrued or cash basis, can make this decision. But the question that we raised is that the budget is a road map of where this government hopes to be one year down the road from a fiscal point of view. That's really what it is; it's an estimate and it's a best-kind-of-guess estimate.

The point that we're trying to make is not to question whether or not the government has the right to do this. But certainly if it is stating—and this is a political document—that the deficit is \$9.9 billion when in fact it has changed the type of allocations that it has made or it has mixed up the accrual and the cash basis and it has made that decision, then what you have is a political statement that the deficit for this year is \$9.9 billion. Whether or not it's proper that they can do these things, what it does is it does not compare apples with apples. It doesn't say: "If we had done it on the same basis that we did last year, which we chose not to, our deficit would have been \$11 billion or \$12 billion. But we have made the decision, and it's quite within our right and quite within accounting principles to do it this way, and as a result we are telling you that the deficit is \$9.9 billion when in fact if we had used the same process we'd used last year and if we were to compare this year with last year it would be up in the \$12-billion-plus range." Is that a fair statement?

Mr Otterman: Yes, that happens, and we've tracked these in our annual reports in the past. When they're fairly major adjustments that way, where plans change during the year whereby funds were either preflowed or in this case will be deferred, when we get to our next year's report we would point out that these funds were not flowed as they normally would be. But it's caught, usually, in the financial reporting end of it, at the end of the fiscal year.

The other case is that I think in the past they've always been highlighted by the treasurers in whatever quarter it works, in their quarterly fiscal report. So it's not as neat and nice as it could be, but these disclosures are made and a reader can find them out and work that in to adjust for comparability purposes.

Mr Stockwell: Firstly, let me just say that I don't agree with what you said just a minute ago. This particular issue, the rescheduling of cash payments, was absolutely buried and hidden—almost deceitfully hidden, in my opinion—during the budget process. I even asked the question in the House of the Treasurer, "Are you going to pay a premium for this borrowing?" and the answer was, "No, we're not." I'm going to say he didn't know, but frankly, as an auditor and a value-for-money auditor, it would seem to me it's absolutely incumbent on you not only to point this kind of thing out but to rail on about exactly the expense to the taxpayers for nothing.

Mr Kwinter: His mandate is not to deal with the budget.

Mr Stockwell: I know his mandate is not to deal with the budget, but he's a value-for-money auditor. This is going to take place, and if the question is put to you, "It's going to happen," I would expect to hear that it's silly to defer this for three months for no other purpose than to keep your debts at below \$10 billion, if it's value for money. Where is the value in this? What's the value in doing this? Maybe that's the question: Where's the value in your mind in doing this?

The Chair: Maybe just for all committee members, you're doing it as an accountant, taking a look at the accounting principles here, regardless of what the treasury does. That interest does not show up until April 1 and it's accounted in the next year. I'm not a chartered accountant myself and—

Mr Stockwell: I'm just asking, where's the value in this trickery? Where's the value to the taxpayer?

Mr Otterman: It's very difficult to comment on any item or decision that's taken in the budget. We don't have the authority to audit the budget, how it's prepared. Actually, we tried several years ago and I think a legal opinion by the then treasury people clearly indicated that we did not have the authority or the mandate to question anything in the budget, in its preparation.

For example, we were concerned with the estimates made for the major sources of revenue. To do a value-for-money audit of that area, just to take your example of this \$2 million, you would have to be privy to the reasons the Treasurer had, all the choices, assumptions or whatever that were available to him to make the decision whether the net cost of this transaction was good value for money, and we clearly wouldn't get access to that information.

Mr Stockwell: This is not an estimate, sir. This is not a revenue projection. This is very simply a deferral. It's a deferral of a payment. If you pay on January 1, it costs you X; if you pay on April 1, it costs you X plus Y. Where in this is the value to the taxpayer? I'm not asking about estimates, I'm not asking about revenues; I'm asking a simple accounting question. By deferring this to keep the deficit below \$10 billion, what is in here that's valuable for the taxpayer?

Mr Otterman: My answer is that it's not the accounting question you're concerned with. I think we've handled the accounting question. Just like any other item in the budget, whatever reasons the Treasurer has, we're not going to get at that. We don't have the mandate to get at it.

The Chair: You just make sure all the nickels are in there at the end of the year.

Mr Stockwell: I understand what he does.

Mr Phillips: Can I just ask a question on the fiscal stabilization thing? I think it's a bogus accounts receivable. The problem is, it's only at the end of the year we find out and then we're on to the next budget. I think they had \$570 million in last year's budget. Surprise, surprise, they didn't get it. Whom can we call on to help us determine whether in fact this is a legitimate item to put in as an account receivable? As I say, if we were in the private sector we would ask our accounting firm to confirm that this is

legitimate. We're counting on you, I guess, to give us some assistance here. How can you help us on this?

Mr Otterman: I guess if you go to the cash basis of accounting, he's not considering it as an account receivable. He thinks it's a payment that he is going to receive in the 1992-93 fiscal year.

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Mr Stockwell: What do you call that? It's not an account receivable?

Mr Otterman: Not on the cash basis of accounting because no cash has changed hands at this point. You've got to switch gears between the two types of accounting, but let's not belabour that part of it.

Again, you're into getting access to the information that the Treasurer would have had to say: "I think this is a good estimate. I think we are going to get it," and where, of course, as I explained, it'll have access to that. How you get that I think would have to be through your questions to the Treasurer and his people. Invite them in, ask them those questions. I think the disclosure is there—

Mr Phillips: I'm sorry, we've tried. We've asked them for 10 months to give us the application. They won't.

Mr Stockwell: You're the last line of defence.

Mr Kwinter: I would like to pursue the same issue, again hypothetically. I understand your role and where you can't comment.

In a public company, if you were to find there was an amount that was included in the annual statement of the financial affairs of the company, an amount of \$1.2 billion, which is a substantial amount of money, that was an expected revenue during that fiscal period, you would think there would be some effort on the part of the auditor to verify that those funds were forthcoming, and if not, there would be a note to the financial statement saying these funds are there but there's no indication, no verification, in fact, that they're going to come. Is that a fair assumption?

Mr Leishman: Yes, that's absolutely a fair assumption when you're dealing with their financial statements at the end of the year. If they had an account receivable of \$1.2 billion there which could not be confirmed and it was doubtful whether it was going to come in, you would no doubt qualify their financial statements because their revenue had been overstated. But what we're dealing with here is a budget which is prepared based on the cash basis of accounting, and it was the Treasurer's best estimate that the whole \$1.2 billion would be received during this coming year.

Our job as auditors of the province, under the modified cash basis of accounting, is fairly simple. If, in fact, that money comes in, then we confirm, "Yes, indeed it did come in and it came in at the amount they applied for." If it doesn't come in, then that should not, under their current basis of accounting, be set up in the financial statements for the year ended March 31, 1993 as revenue at all.

If this were a private company, then what we would be doing would be exactly as Mr Phillips stated. We would be examining that application, making sure the application was valid and at the correct amounts. We would be

confirming with the federal government, "Yes, indeed, you do have a valid payable to the provincial government," but under the modified cash basis of accounting we, as auditors, are only interested in what comes in cashwise.

You're right, there is a chance that a portion of that \$1.2 billion might not be received this year. Perhaps the whole thing won't be received. If it isn't, when the financial statements come out their budget will be over what their actual is by \$1.2 billion.

Mr Otterman: I'd just like to add two points to perhaps further clarify that.

In your private sector example, Mr Kwinter, you used the financial statements, if we were auditing the financial statements. Also, if in the private sector we were auditing a prospectus for that company, that they're going out to try and expand their operation and get more money from lenders, there the auditor is looking at some of the reasonableness of the figures they've put into their financial projections, and that forecast would be like examining the budget.

Mr Kwinter: If I could just—

The Chair: We've got Mr Sutherland—

Mr Kwinter: Just a supplementary.

The Chair: A short one.

Mr Kwinter: That's exactly the point I want to make. The budget of Ontario, which is not an accounting document per se because it's a projection, is a prospectus. It is being put out to entice people to invest in Ontario. It is being put out to try to get support for the fiscal policies of the government. If these things are put out and say, "We have a \$1.2-billion receivable and we are going to defer costs," and everything else, it really misrepresents the financial status of the province.

We as members of the Legislature have to take on the role that an auditor or a securities commission would take on if it were a prospectus with a public offering or an auditor in a financial statement. I think we have the right and the obligation to take a look at revenue projections where there is no basis for assuming that those revenues will ever be received. Our concern is that when we try to get some kind of indication, some sort of verification that yes, an application has been made, yes, there has been a response that was favourable and yes, there's every indication and every expectation that during this fiscal period ending March 31 we will be the recipients of \$1.2 billion in federal transfer payments, and when we don't get that, when we don't get any comfort that this is going to happen, then I think we have a problem.

I think we have an obligation to people who are looking to the fiscal position or stability of the province to let them know that there's some gerrymandering going on, or whatever you want to call it, there's some creative accounting, and these are areas that should be open to question, which is all we're doing.

The Chair: Any response?

Mr Gary Wilson (Kingston and The Islands): That wasn't really a question.

The Chair: I don't know.

Mr Sutherland: So I guess, to summarize here, we've had the Liberal members ask three questions. But basically, if I can summarize correctly, you have indicated that at this time you're not in a position to make any statements on that because you will have to wait until the financial year is closed and the actual financial statements are presented. Then you'll be able to make some comment in terms of whether their concerns are valid or whether the Treasurer has put forward an accurate position of the financial statements.

Mr Otterman: I think it'll be self-evident. The events themselves will be disclosed at that point and we'll simply audit the validity of those events. That's correct.

Mr Sutherland: So in terms of right now, though, again what we have here is speculation on how the events may turn out and we have to wait and see how the events actually turn out.

Mr Stockwell: My question now is more on procedure. There are clearly bold-faced untruths, in my opinion, in this budget. There's just no doubt in my mind that they are simply in there—

Mr Sutherland: Excuse me. A point of order, Mr Chair: Could I ask, for the record, since this is the second time Mr Stockwell has used such language, whether we are under the same guidelines as the House in terms of what type of language we use?

The Chair: I believe we are.

Mr Stockwell: Which word were you upset about—"bold"?

Mr Sutherland: No. I think "untruth" is the one I want to take out and challenge you on.

The Chair: Okay. Just use another word there, Mr Stockwell. You've got many.

Mr Stockwell: Lies.

The Chair: No, no. Come on.

Mr Stockwell: I guess that's not a good word either. I guess I feel very strongly about this. I'll say they are just unbelievable.

The Chair: Okay. That's a good one.

Mr Stockwell: It's just unbelievable that this should be brought forward in this fashion. The \$1.2-billion fiscal stabilization account is a pipedream. We all know it. Maybe they don't, but they will know it soon. The sales and rentals are, in my opinion, a little sketchy. That one can almost be acceptable, but the \$500 million now being pushed off for three months is absolutely unbelievable.

I guess my question to you is: The treasury department can't help us, simply because it is not allowed to speak out against the government. That's very clear, because no accountant would sign this. You as the auditor can't help us, because you're on a cash audit system where the moneys have to actually appear before you can make a determination, or not appear or the year has to end, so you're of no use. So who is it that we go to as protectors of the taxpayers, as stewards of the taxpayers, from a professional basis in the huge bureaucracy of this place, to

announce to the public for their own protection that these numbers are cooked? Who has that responsibility?

Mr Otterman: A general answer to that is, I believe you as members, under your ability to use the tools you have—

Mr Stockwell: But there's no professional staff, in essence, none; no professional staff hired by the taxpayers.

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Mr Gary Wilson: I think you're the professional staff. You're the guys who are supposed to be doing that.

Mr Stockwell: I'm not asking you to provide these numbers. Why would I ask you anything? My question is, there's no professional staff we can approach who would give an unbiased, professional opinion on whether these numbers are cooked. That's all I'm asking. You're of no help. Who is it? Who's supposed to do this?

The Chair: Mr Stockwell, I think he answered the question before. He counts all the nickels at the end—

Mr Stockwell: I'm asking him who is the staff who can help us. Is there anyone who can ferret this out? You know they're cooked, I know they're cooked, the Treasury staff knows they're cooked, but nobody can say it.

Mr Sutherland: Mr Chair.

The Chair: Just a minute. Mr Sutherland.

Mr Sutherland: First of all, I resent the implication that the books have been cooked here. Okay?

Mr Stockwell: I'm saying it, categorically: They're cooked.

Mr Sutherland: Mr Stockwell, you've had your opportunity. I'd like to have mine here for a couple of seconds, please. The point of the matter is, Mr Stockwell has indicated that we have no basis for a claim to the fiscal stabilization account and I don't think that's the case. I think there is a legitimate claim Ontario has for this and that we deserve that. Now the question may be as to when we're going to receive that and that may be an issue that comes up.

Mr Stockwell: You must have fallen off a turnip truck.

Mr Sutherland: Just a minute here: There has not been a process put in place for this type of assessment of a budget to go on. The auditors have said, and they've said it several times here already, that at the year-end, when the financial statements are presented, they'll be able to make some type of judgement, but probably by that time we will know anyway because as events unfold the information will be presented. The information has been presented. The auditors have answered. I'm not sure what else we're going to be able to do at this stage this afternoon regarding the assessment.

Mr Stockwell: I just asked a question.

The Chair: I know. You made a statement. There was one—

Mr Stockwell: Can I get an answer to my question?

The Chair: I just want one question. I know the Chair usually doesn't ask a question, but it is for a little clarification so I understand all the issues here too. This procedure has been carrying on for how long, what we're doing right

now, on the auditing? This is not something new in the last year or two years; this has been going on for years, so there hasn't been a change in auditing, has there?

Mr Otterman: I don't think it's a change in auditing.

The Chair: Or accounting.

Mr Otterman: Are you asking, is it a change in accounting?

The Chair: Yes.

Mr Otterman: There's been no change in the basis of accounting, to the best of my knowledge, going back to—

The Chair: Just maybe give the whole committee a little clarification.

Mr Otterman: Maybe since 1968 was the last major change.

The Chair: Fine. Can you answer Mr Stockwell's—

Mr Stockwell: The only question I have left is, is there any professional staff, bureaucrats who are hired, who can come in and get an honest accounting, a person-in-the-field submission, as to the validity of this? Is there anyone?

Mr Otterman: If you're asking, is such an estimate capable of being audited? the answer would be yes, it's capable of being audited.

Mr Stockwell: So unless the Treasury department agreed to release that report there's little, if anything, we can do?

Mr Sutherland: Public accounts committee.

Mr Stockwell: Somehow this—

Mr Phillips: We were turned down at public accounts.

Mr Stockwell: Yes.

Mr Phillips: We were voted down by the NDP. They wouldn't let us look at it.

Mr Sutherland: You look at it and you look at the—

Mr Phillips: We took it there and we were voted down.

Mr Sutherland: At public accounts, though, you look at the financial statements after the year is over and review them.

Mr Stockwell: No, I'm asking now. Just like if you were going for a public offering, like Mr Kwinter said, there is some validity to the numbers. All I'm asking is, is there any avenue or any area open that could measure the validity of these numbers? Because in my opinion they're cooked. How do I get that out to the public? It's shameful.

Mr Otterman: I would just comment that when you say the books are cooked, I think you've got to be careful of that, too. It's a little generic. If you're talking about the budget and the estimates therein, fine.

Mr Stockwell: That's what I'm talking about: They're cooked.

Mr Otterman: But you're talking about the financial statements of this province.

Mr Stockwell: That's what I'm talking about, the budget: The numbers are cooked.

Mr Otterman: They haven't been cooked.

Mr Stockwell: They're cooked.

Mr Otterman: Okay.

Mr Stockwell: No more questions.

Mrs Elinor Caplan (Oriole): First of all, I appreciate your being here today. I think the questions we have about the accounting practices in the formation of the budget are ones which are of interest to people who are looking at the province's budget for the purposes of deciding on future investment opportunities and so forth, in judging our credit rating and generally, after the fact, the competence of the government or ultimately how good it was in not only predicting but making decisions from policy, both economic and fiscal, as well as social policy decisions. So the question we have around the accounting practices is a real one.

I'm not going to engage in the kind of rhetoric of my friend Mr Stockwell, but there's such a thing as generally accepted accounting principles and generally accepted accounting practices when a corporation establishes a budget or an estimate, and the questions we have are very serious and very legitimate, and that is, are the practices and the principles that have gone into the formation of the budget in line with those which are generally accepted for large corporations which are developing perspectives, or is there something different about this?

Are the assumptions that are being made in this budget realistic and legitimate so that people can count on them, or have they been sort of selectively taken in a way which would give us—we do expect that the year-end results are going to be very different than the estimates the budget put forward, and that causes us great concern.

Mr Otterman: Perhaps I can go at this, to try to be helpful, in this way: On your first example of the private sector, referring to the terms of generally accepted accounting principles and so forth, probably for the last 15 years, various governments around the world, and primarily in Canada the Canadian federal level and some of the provincial levels, have been looking at the various bases of accounting they've been using over the years.

It's probably to say that most started with the cash basis of accounting. In many parts of the world today and in most parts of Canada, some modified version of the cash basis—which I don't want to get into, it'll only get confusing, but it means you hold the books open a few days. You don't cut off cash receipts or cash expenditures right at the end of the fiscal year, and they use that term "modified" there.

There has been very much work done in Canada by the CICA, the Canadian Institute of Chartered Accountants, through its public sector accounting and auditing committee, and even around the world, Australia, New Zealand the United Kingdom and several other governments have been working towards trying to improve the financial accounting and reporting systems in an attempt to improve overall accountability.

You could tie that back to the budgets. Once you change your basis of accounting, you'll likely apply that same basis in preparing your budget. You may not. If you don't, then you've got some reconciliation to do, and that could be confusing, I suppose, too.

But it may be useful to the committee, and also to the public accounts committee, if they wish to delve into this matter, to take a look at a study that was done by the International Federation of Accountants, which is comprised of the major accounting bodies around the world, in a report it released in March 1991. It probably gives the best explanation of the various bases of accounting that exist, from the cash basis on the one end to the full accrual, generally accepted private sector basis on the other end, with various versions in between. It's probably the best laymanized—as accountants can get, anyway—version I've seen and I'd recommend it.

Mrs Caplan: It's not too boring. Is that what you're saying?

Mr Otterman: Yes, I think it's fairly readily understandable too. It won't get you into a whole bunch of fancy jargon that'll put you to sleep right away. I think that would be a useful thing for you to consider in response to the other member's question, who I would seriously like to help, but this might be the more useful way of helping.

I think these various forms of the basis of accounting generally regard that the more you move up the ladder from cash basis to the other forms up to the full accrual basis, the thinking is anyway that it is an improvement in accountability to be able to demonstrate your stewardship for the funds than the lower end.

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Mrs Caplan: Where would you place Treasurer Laughren on that scale from zero being cash to 100% being accrual?

Mr Otterman: The province essentially follows the full cash basis of accounting except expenditures—you can pick me up on that—

Mr Leishman: It's modified from about three.

Mrs Caplan: Three?

Mr Leishman: Towards the cash basis.

Mrs Caplan: Say that again.

Mr Leishman: About 2 or 3 out of 10, leaning towards the not fully cash basis, but almost fully cash basis.

Mrs Caplan: That's the least level of accountability in public administration and that falls short of where the international community is recommending governments should be.

Mr Otterman: That's what the accounting communities are recommending.

Mrs Caplan: The international accounting community has recommended greater—

Mr Otterman: Yes. They see it increasing the accountability such as the earlier questions. It would cover things like loans receivable and loans payable. Undoubtedly, as you go up into the full accrual accounting, the items have to be set up when the transaction occurs versus when the cash flows.

Mr Leishman: I'd just like to make one statement. Whether you follow full cash accounting or whether you follow full accrual accounting—I think we commented on this in our report last year, the year before last and the year

before that. Whatever basis you follow, when it's followed with integrity, that's fine. But where accountants and auditors begin to have a problem is when, in their opinion, the integrity aspect isn't there. I'm not making any comment about this year or last year. It's just a general comment.

Mrs Caplan: I'm going to yield to my colleague Mr Phillips.

The Vice-Chair (Kimble Sutherland): I'm sorry; I've got to go to Mr Jamison and then come back, okay?

Mr Norm Jamison (Norfolk): If we bring this back into perspective, Mr Phillips has asked the auditors to come here today to answer some questions. Due to the way the Provincial Auditor's function exists, I think the auditors have put it very clearly that their role is one they have to be very careful about in their answers.

On the rest of the conversation, it should become painfully aware on the part of the Liberal Party in this committee, it should become very clear that as with any budget, there are projections. I think this is what Mr Phillips is talking about: the projections. We have talked, even in the latest round of the Canada talks, about certain commitments being upheld by the federal government, about certain payments and certain duties the federal government has not being negated at certain times. I think the Treasurer has answered some of those questions in direct questioning from Mr Phillips in the House.

I'd like to say this: As with any budget, and certainly the Liberals should be aware of this, their projections were well off, given one certain projection in around 1990, I believe, to a great extent. That deals with economic factors that are projections in any budget, and those we should be aware of, especially sitting on this committee. As we've talked to economists, for example, over the last two years and listened to projections on the economy based on renowned economists in this province, all of us have been saddened to come to understand that none of them has been right. It's a very deceptive kind of art in itself, trying to predict what will happen in the future. So I would say to you that in the context of Mr Phillips's letter, your abilities to answer those questions you described are very limited in their scope.

Mr Phillips: Just on the point Mr Jamison made, I appreciate the auditors' report on the deficit in which they said there was only one surplus in the last 20 years in Ontario, and that was the final Liberal budget. Then it goes in detail to explain what happened after the NDP took over and the \$3-billion deficit. As I've said in the House, if the Premier dares to use that \$8-billion number again, I will challenge him to a very public debate.

I'm back to the audit, and I hope you can understand our frustration, because we can't seem to get any help in terms of dealing with the issues. We started with this thing when the budget came out. We asked the auditor, and he said, "Well, I'll have to get a committee to ask me." We tried to take it to public accounts; public accounts turned us down.

Last year in the budget there was, I think, \$570 million receivable from the fiscal stabilization fund. It never came in. Did you, on hindsight, examine that and comment on

the legitimacy of that claim and whether that was realistic to have in revenue?

Mr Otterman: No, I don't believe we did any work on that claim.

Mr Phillips: Could you do that? I gather you're saying you can do nothing about the one that's in this year's budget, but you could give us an opinion on whether there was reason for it to be in the budget last year.

Mr Leishman: Mr Phillips, I believe it wasn't in the budget last year. The first time it appeared was as of—

Mr Phillips: An estimate, okay.

Mr Leishman: —the December 31 Ontario finances that came in.

Mr Phillips: Yes, that's right.

Mr Leishman: Had it come in for the year, had it been received, then we would have audited it. I believe somewhere someone has made a statement that with those claims, the federal government has a period of 30 months upon which to act. I think the claims were made in December 1991 and February 1992. So you can take it from that as to whether it will be received this year. I don't know. We aren't privy to the discussions that are going on between ministry of treasury and treasury in Ottawa, so we wouldn't know.

Mr Phillips: You can see why I'm getting frustrated here. It was in the revenue estimates last year. It didn't come in. You do the audit, but you can't comment on it because it didn't come in. You will never, ever be able to give us a comment on whether it should ever have been included, then?

Mr Leishman: If the government changed its basis of accounting to the accrual basis of accounting, then things would be different.

Mr Phillips: But aren't, then—for the public—your hands totally tied and you can't comment on the fiscal stabilization?

Let me tell you what's going to happen. The government is desperate to get the deficit down. There will be so many different schemes down the road that your head will spin. The first one we see is to sell the GO trains; then there will be a bunch of buildings sold; then they'll probably take sewer and water off the books; then they're going to take training and what not, and take it off the books; then there will be just a series of things. So the public, without somebody like yourself—we can try to do it in opposition, but we need some help—is not going to have a consistent basis of comparison. I'm getting the feeling from you people that you can't help us.

Mr Otterman: There is one thing that we shouldn't overlook. As we've mentioned in previous reports, we've tracked the kind of unusual or abnormal cash flows that have occurred in here, whether they were included in the budget or not. After the year-end, we can comment on the variances from budget, if we wish to, and look into those. At year-end, we would give further scrutiny to ensure that the financial statements are correct, that the integrity is there in terms of, for example, this equalization-stabilization payment; as we would do for, say, the personal tax

revenue—that's under an agreement—and how that flows. We give it some scrutiny to see that they got the money they were supposed to get, that the variance is not all that far off.

Under the cash basis, the thing that we're always looking for in accounting at year-end, if you really want to get into the integrity part, is that there were no deliberate attempts to stop money from coming in, like putting it into the next year and stuff like this. We look at that. It's not going to be the easiest thing in the world, maybe, to find, but we would do that.

But beyond that, no, we'd be back into looking at the budget items again and we're not privy to that.

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Mr Kwinter: I'd like to comment on Mr Jamison's comments and maybe get a reaction from you. I think it's quite apparent that we are not critical of the fact that, given the uncertainty of our economic environment, the projections are not right on an income and expenditure basis. Because of the depth of the recession, because of certain things that have happened on a global basis, those things change.

We have no problem with that, and we're not criticizing anybody for saying, "Our revenues were supposed to be this, our expenditures were supposed to be that and we didn't meet our targets." That happens all the time in many organizations.

What we are critical of and what we are trying to get some sort of handle on is when they take \$500 million and delay the payment for no reason. It isn't as if the province is strapped for money on the long term. They have access to \$500 million any time they want it, so it's obvious that the three-month delay was strictly cosmetic; it was strictly so that the \$9.9-billion figure could be held, because in the minds of the Treasurer and the cabinet and the Premier, "We don't want to go over \$10 billion, so whatever you do, do some creative accounting to keep it under the \$10 billion."

What they've done is taken \$500 million and said, "Instead of paying it in January, when we normally do—we certainly don't have to go and beg on the streets to get the money; we have the money, because there's always a turnover," they have agreed to take the \$2-million penalty, or whatever the amount is, and delay it until April 1. They have set up a receivable of \$1.2 billion, of which there is no real, concrete confirmation that it's going to be forthcoming. They have set up internal sales of assets to a crown corporation so that they can also show it.

The concern we have is that if it weren't for the politics of it, what they would do is let the figures go. Whatever they are, they are. Businesses are faced with exactly the same obligation. These are the figures, with a footnote to the budget, "We have applied for stabilization transfer payments, and if they are forthcoming, we will reduce our deficit"; not the other way around, of including them and saying, "These funds are coming, and as a result, here's what our deficit is going to be."

That is the problem I personally have. The tail is wagging the dog. The number is \$9.9 billion; your responsibility is to come up with that number. How you do it—just make it

so that it sounds feasible and come up with these various scenarios and, "This is the one that seems to be the most palatable and the one we can sell the best."

That is my concern. I'm not asking you to make a political comment. What I'm saying to you is, do you not agree that the way it should be done is to state the financial condition, and if you want to put some of these other things in, put them in as potential changes as opposed to, "These are the facts; this is what it's going to be, and we'll worry about it next year when it doesn't happen"?

Mr Otterman: That is an alternative way of handling it. But again, not being privy to what went into the decision-making for doing it the way the Treasurer did, I can't comment further.

Mr Gary Wilson: I guess one thing that occurs to me here is that the auditor and his colleague have been very patient in explaining the kind of accounting system that's used here, and the Chair brought out that it has been in effect for a good number of years. I wonder why, if the Liberals are so exercised about it now, they didn't immediately proceed to change it to the accrual type of accounting rather than what's called the modified cash basis of accounting. As we've heard, there are the two ways of doing it, and that has been in practice for a long time.

The other thing is, as Mr Phillips mentioned, that the surplus was brought in by the Liberals under, it seems to me, the same kind of arrangement. Then you'd have the accountants drawing to the attention of the Legislature, perhaps, how that was achieved: by downloading on the municipalities, for instance, and other ways of keeping the money here rather than fulfilling responsibilities.

Pay equity is another example, the things that weren't done, where the money might have been spent, which would have run up a deficit or at least taken down the surplus. Those are political decisions, and I think they've been quite clear that this is where our responsibility lies. I just wanted to make that comment, Mr Chair.

The Chair: That's a comment. Okay. Any questions? Mr Sutherland.

Mr Sutherland: I think Mr Wilson is right in terms of the types of political decisions you make. Mr Chair, though, I think we've had the auditors here for an hour, we've gone through questions three or four times. I think we understand.

The auditors have commented on what they can at this stage, so unless there are new questions outside the teachers' pension plan issue, the stabilization account and the Ontario Land Corp, I'm not quite sure what the need is to continue questioning this afternoon. The auditors have commented on what they can comment on, and beyond that, it is going to have to be left until the end of the fiscal year, coming back probably from a public accounts standpoint.

The Chair: Okay. Want to wrap it up, Mr Phillips?

Mr Phillips: Well, I'll try. It's been a frustrating experience, and if you've commented on the fiscal stabilization last year anywhere, I'd like to see it, because that seems to be the only area you can comment on. I think we'll have to pursue it in whatever way we can. I guess we can't get much assistance from the auditor. I think my concerns are

real and are valid, and I'm concerned that the public is not being given the full picture.

I think there's another long-term issue we may want to look at as a committee, and that is the suggestion from the auditor of whether we can initiate a new way of reporting for the province.

I think people are cynical, and I'm not saying this is the first government ever to do these things, because I think every government looks for ways to try to make itself look better. Every single government does it. But the members of the public get very cynical when they see they can't trust the numbers, and therefore I'd like perhaps to get copies of the report that you've got. I would like perhaps some time on our committee, Mr Chairman.

The Chair: Yes, maybe the committee could get a copy of that.

Mr Phillips: I think all of us perhaps could agree that it's in our best interests to try to find ways to update our provincial reporting systems, because otherwise it will be the most creative artist out there who—this GO thing is just the start of it. There are going to be some of the most harebrained schemes over at Treasury to try to make the numbers look better. Quite understandable. I think the whole financial community has been alerted to it. It's, "Bring forward the schemes," and I understand that.

So I would request perhaps the report, a chance on this committee for discussion. I appreciate your coming here today and I appreciate that you can only do what you have the authority to do and that we're railing at you when we're railing at something else. I hope you take it in the way that I certainly meant it and I hope we all meant it. I'm frustrated, but I don't think they can do much more for us.

The Chair: Okay, Mr Phillips. I'm glad that we were able to have the auditor come at your request and that the committee agreed to have the auditor come before this committee. Being frustrated, maybe you'll become an accountant in the end, to figure out how to—

Mr Phillips: Oh, it's better than politics.

The Chair: That's why I asked a few questions. Normally as a Chair I don't ask the questions, but I like to get a little bit of clarification. It is a special field and takes many years. My assistant's dad owns a firm in St Catharines and that's why I had him in here for a while, in case I got lost with some of the terminology. But I didn't have to run back to him.

Mr Otterman, you explained everything quite clearly, and as I've heard Mr Phillips say, you're one of the the bean counters out there so you make sure all the beans are in the jar at the end of the year. I don't think there have been any missing that I can see, but maybe there are a few still growing out there that haven't been picked until the next year, as Mr Phillips has said.

I appreciate your attendance here, and maybe as a committee we'll take a look at welcoming you back again after the fiscal year. Maybe there are going to be some changes that can be made. As you say, you've been doing the same old job for years the same old way, but maybe there are better ways to do it. Thank you for coming.

This meeting is now adjourned until we have another subcommittee meeting.

The committee adjourned at 1700.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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***Vice-Chair / Vice-Président:** Sutherland, Kimble (Oxford ND)

***Caplan, Elinor (Oriole L)**

Carr, Gary (Oakville South/-Sud PC)

Christopherson, David (Hamilton Centre ND)

***Jamison, Norm (Norfolk ND)**

Kwinter, Monte (Wilson Heights L)

***Phillips, Gerry (Scarborough-Agincourt L)**

Sterling, Norman W. (Carleton PC)

Ward, Brad (Brantford ND)

Ward, Margery (Don Mills ND)

***Wiseman, Jim (Durham West/-Ouest ND)**

Substitutions / Membres remplaçants:

***Wilson, Gary (Kingston and The Islands/Kingston et Îles ND) for Mr Ward**

***In attendance / présents**

Also taking part / Autres participants et participantes:

Leishman, Ken W., executive director, reporting and special audits, Office of the Provincial Auditor

Otterman, Jim F., acting Provincial Auditor

Stockwell, Chris (Etobicoke West/-Ouest PC)

Clerk pro tem / Greffière par intérim: Manikel, Tannis

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service



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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 29 October 1992

Standing committee on finance and economic affairs

London-Middlesex Act, 1992

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Jeudi 29 octobre 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur
London et Middlesex



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 29 October 1992

The committee met at 1009 in committee room 1.

LONDON-MIDDLESEX ACT, 1992

LOI DE 1992 SUR LONDON ET MIDDLESEX

Consideration of Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex / Loi concernant les annexations faites à la cité de London et à certaines municipalités du comté de Middlesex.

The Chair (Mr Ron Hansen): The standing committee on finance and economic affairs will come to order. I'd like to say good morning. I see a lot of new faces on this committee for this particular hearing.

This morning we're going to have a presentation from the Ministry of Municipal Affairs in reference to Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex. It's been sent to this committee.

At our last subcommittee meeting it was decided that we'd have the ministry in this morning and witnesses this afternoon; the following Thursday will be witnesses; two weeks later, on November 19, we'll have clause-by-clause and amendments. That's to give all members an update as to what's going on in these particular hearings.

I'd like to say that a request came into my office just about half an hour ago. It was from Doris Bond, a councillor from Westminster, requesting that proceedings of today's public hearings be televised. After discussion with Todd Decker, it wouldn't be televised back to the Westminster-London area, because right now we have private members' time in the morning, and then in the afternoon they'd be televising the House sitting, so our committee would not be televised out to Westminster and the London area. It's decided that it wouldn't be an advantage to switch this committee to another room to be televised. I take it that all members agree that it wouldn't make an impact? Okay.

Mr Ron Eddy (Brant-Haldimand): I have two questions. When the briefing is going on, will we be allowed to ask questions at that time, or should we wait till the end of the briefing?

The Chair: I'm going to take some direction from the PA.

Mr Gordon Mills (Durham East): At the end.

The Chair: At the end, yes. A lot of the presentations this afternoon will be half an hour, and if they take 20 minutes on the presentation, it's only going to leave three minutes for each party to ask questions. So keep in mind that if you have a question that's three minutes long, I'm going to have to cut off so the other parties have a chance to ask a question.

Mr Eddy: That will be explained to the presenters, of course.

The Chair: Yes, I will. But it can happen with the members if their question is three minutes long.

Mr Eddy: The other question I had was, are we able to accommodate some or the majority or all the people or bodies requesting to be heard? Have you any feel on that?

The Chair: I've got a list right now of people who have requested to appear on the committee. Mr Eddy, I believe you're a member of the subcommittee now. The three subcommittee members will be sitting down and doing a cross-section of people to come, because I don't think we'll have enough time for all of them. We've got about nine pages of people to come before this committee. There was some discussion at earlier subcommittee meetings that we cut it to 15 minutes to get more people on, but I don't think it would have done justice to people to appear for 15 minutes, and we'd have no time for any questions.

So possibly 15 minutes before we meet this afternoon, the subcommittee members can meet ahead of time and discuss some of the groups here so that we get a good cross-section. Maybe some of them have appeared already, maybe we have their briefs, and possibly we can have some new groups come forward. Is that agreeable with you, Mr Carr?

Mr Gary Carr (Oakville South): Yes. It's just that you said nine pages. Do you know how many that works out to, the number of people who want to come in?

The Chair: They did something wonderful for me: They numbered them. There are 37.

Mr Carr: Thirty-seven. So at the subcommittee we will go through that and be able to—

The Chair: I think we agreed that we'd have enough time for nine. Was it nine? Yes, at a half-hour, there were nine groups. Mr Sutherland, do you have any problems at, say, 3:15 for that subcommittee meeting?

Mr Kimble Sutherland (Oxford): No, that's fine.

Mrs Irene Mathysen (Middlesex): Mr Chair, in connection with the broadcasting, while I understand that other things are going on so that there couldn't be a live or simultaneous broadcast, I would like you to consider the advantages of the people in the area being able to see a rebroadcast at a later date in terms of hearing what the people who come to this committee have to say both for and against Bill 75.

The Chair: With the scheduling of the different committees in the different rooms, I'd have to talk to the chief government whip. Maybe I can have a discussion after we break at 12 o'clock and see if there is a possibility.

Mrs Mathysen: If you could find her, that would be fine.

The Chair: If I can find her, yes.

Mr Mills, would you introduce your guests? Okay, you're starting off.

MINISTRY OF MUNICIPAL AFFAIRS

Mr Mills: Thank you, Mr Chair. I'm going to start off here this morning, and I'm going to make the opening statement on behalf of the minister on the London-Middlesex Act, Bill 75.

The new local government structure that will be created by Bill 75 will position the greater London area for economic renewal while ensuring that the environment and valuable farm land are protected.

The greater London area is one of the most desirable places in which to live and work. It has the potential to attract new commercial and industrial development that can give a much-needed boost to its economy, the benefits of which will be shared by the entire province. The reality is, however, that London cannot accommodate new growth within its existing boundaries. London needs more land to provide for a viable future for all of the communities in the area. Managed growth is essential as we head into the next century.

For the past 11 years, various attempts have been made to arrive at a local solution to London's need for more land. All these attempts have failed. That is why in January the Minister of Municipal Affairs appointed an arbitrator, John Brant, to examine all options and recommend the most workable solution.

The Brant report forms the basis of the legislation that was tabled in the Legislature by the minister on June 18.

Bill 75 will resolve this long-standing local dispute. It will position the greater London area for economic renewal. It will financially prepare the county of Middlesex for a renewed rural community. It will give agricultural land in the annexed area the greatest protection in the province and correct the area's serious environmental problems. Regulations will protect farm land and control urban sprawl.

The legislation enshrines comprehensive planning, prevents piecemeal development decisions and creates a climate of certainty for the future of London-Middlesex farm land and the environment.

The city of London will be required to develop and adopt a new official plan. The regulations for Bill 75 will spell out the mechanisms for mandatory public and provincial participation, participation that will ensure meaningful involvement by a wide variety of local and area interest groups and guarantee consultation with provincial ministries.

The new official plan will address the issues of growth management, social planning and the protection of the environment and of agriculture. The regulations will call for the development of a strategic vision and a social services plan that will form the context within which the new official plan will be developed. All future land use decisions made within the new city of London must reflect the principles and values expressed in the official plan.

The county of Middlesex, through its own visioning and planning, and assisted by a compensation package funded by the city of London, will have an excellent opportunity to reaffirm its values for rural living. It is through

good, sound planning that we protect the environment and renew existing rural communities.

It is critical from a good planning perspective that the same body that controls development and sewers also controls water services and parks. We believe the decision to have the city take over the functions of the two public utility commissions has common sense and good planning on its side. This will ensure that a single body will be responsible for the delivery of parks, water and sewer services.

Services currently provided by the two PUCs will not be cut off, and municipal employees who are affected by the annexation, including PUC employees, must be offered a job by the city of London.

A new hydro-electric commission will be established to administer the electricity functions of the PUC. The commission will be represented by the chairperson of the Westminster PUC and five London PUC members until the next municipal election. Thereafter, city council will appoint the five commissioners.

Since the release of the Brant report on April 3, 1992, we have listened to both sides of this debate. John Brant held extensive public consultations in the city of London and the county of Middlesex from January till March. He listened, and we listened.

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When second reading debate of Bill 75 was interrupted in June, we were already committed to holding public hearings in the London area. On September 24 and 25 the minister kept his promise and heard presentations from 62 people from the city and the county.

A number of sound ideas were presented at the hearings and are reflected in the amendments we will propose to this committee. The amendments also address some of the concerns raised by four local members: Marion Boyd, Irene Mathyssen, David Winninger and Dianne Cunningham. They have been active participants throughout this process and were all present for the two days of public hearings held in London.

Proposed amendments to Bill 75 will deal with land use planning and financial matters, particularly in the area of the compensation package.

Changes to the planning sections of Bill 75 result from extensive consultation with the affected municipalities and provincial agencies. Part of the consultation took place through the transition team the minister established to oversee the implementation of the legislation. The transition team consisted of political and technical representatives from the five affected townships, the town of Westminster, the city of London and the county of Middlesex.

The amendments being proposed to this committee introduce some flexibility in the buffer area. These changes will accommodate future unforeseen land use activities that would not detract from the basic intent of the buffer area. The changes to Bill 75 will permit the minister to deal with these matters through regulation.

The buffer area will remain a truly long-term agricultural and open space area on the border between the county and the new city. There will be ample opportunity for planned urban growth within the enlarged London. The controls in the area are already in place today through

official plans approved by the province. The regulations of Bill 75 will ensure that this control remains.

Additional changes would enable the province to ensure that the city of London prepares its new official plan within a reasonable period of time, as well as all the prerequisite studies and plans such as its strategic vision and a social services plan as outlined in the Brant report. These changes will also ensure that the protection of agricultural lands and the environment are dealt with to the province's satisfaction.

Ministry staff have already commenced consultation with the city of London on the process through which these documents will be prepared and on the methods for obtaining extensive public participation. The regulations will ensure that these matters are addressed to provincial satisfaction and that certain portions of the present city official plan reflect the latest provincial policies and standards.

It is gratifying to see the high degree of cooperation that has already been shown by the affected municipalities. We will continue to encourage this cooperation in the future and intend to reflect it in the regulations.

One example will be the formation of a rural advisory committee as part of the city of London's decision-making process and structure. The regulations will spell out the committee's composition, representation, function and reporting relationship.

In addition, ministry staff will be working with the city of London's staff and representatives of London's social service agencies in the development of the social services plan component of the bill.

Changes to the finance sections of Bill 75 result from consultations with affected municipalities and the public hearings held in September in London.

Given the concerns expressed by the county and affected municipalities, the compensation package will be amended to more accurately reflect the impact on the county. Amendments include a regulatory power that outlines payments directly to the county and four local municipalities to compensate for the annexation. The amendments provide for enhanced compensation to Middlesex county and annexed municipalities to ensure that no county resident will experience any annexation-related tax increases for five years.

As with all other municipalities in Ontario, the decision to move towards market value assessment is a local one and will be left to London city council.

For conservation authority levies, a regulatory power will be added to the act to permit the Lieutenant Governor in Council to alter the apportionment so that tax shifts among municipalities may be reduced. In order to provide additional time for the city to prepare for extending services to annexed areas, the city will implement urban service areas in 1994.

Given that the county will be responsible for suburban roads following the annexation, suburban roads payments will continue in perpetuity.

Additional changes to the finance sections of the act are technical in nature and relate to the amendments discussed above.

As a result of the transition process, a few amendments relating to the bill, not related to planning or finance, have

also been deemed necessary. Affected township municipalities or boards will be given an extra six months, to January 31, 1994, to determine which employees will be considered surplus and then be employed by the city or its boards. A provision will be added so that Westminster volunteer firefighters can continue to operate in the new city.

A provision that would allow municipalities or boards to appeal a decision of a committee of referees on the distribution of assets and liabilities will be clarified to say that an appeal must be lodged within 30 days. Westminster libraries that were to continue to operate through 1997 will now do so under the London Public Library Board's direction.

Detailed explanations of each of the changes to Bill 75 are appended to the actual rewrite of the bill itself. You will find these appendices in your packages of material.

In conclusion, on behalf of Dave Cooke I'd like to take this opportunity to thank the four local members for their cooperation throughout this process, and particularly for their participation in the two days of public hearings held in London: London Centre MPP Marion Boyd, London North MPP Dianne Cunningham, London South MPP David Winninger and Middlesex MPP Irene Mathysen. They have faithfully represented the concerns of their constituents while acknowledging the needs of the entire London-Middlesex area. The minister has appreciated the insight of his caucus colleagues and would like to acknowledge the fact that Dianne Cunningham remained non-partisan throughout the process.

I would also like to extend our appreciation to John Brant for taking on the responsibility of arbitrator and for doing such an outstanding job.

Annexation, amalgamation: Any change to local government structure or municipal boundaries is difficult. Redefining the parameters within which a community identifies itself is bound to elicit an emotional response. But true community is not defined by boundaries. True community grows out of a shared vision of strong values and principles.

The London-Middlesex area is expected to be one of the fastest-growing urban areas in Ontario heading into the next century. The potential for managed growth and economic, social and cultural opportunities cannot be realized without a change to the current local government structure.

The solution to this emotionally charged debate has been a long time coming. While this solution will not satisfy everyone, we believe we have now achieved the delicate balance between competing local interests and the good of the entire London-Middlesex area.

Now I am pleased to table the written submissions that were presented at the minister's public hearings held in London in September.

1030

Mr Eddy: I am disappointed that the honourable minister is not here to answer some of the questions and be involved in the process, because I understand that he is the one who indeed is making at least some of the decisions in this matter. However, I want to point out that the Liberal and PC members had the opportunity to meet with the staff to have a briefing late yesterday afternoon, and I very

much appreciated that. We were advised at that time of several amendments and were advised that we'd have them in writing this morning. Are they available at this time, or will they be—they are available?

Mr Mills: They're in your packages here.

Mr Eddy: Oh, they are included?

Mr Mills: Yes.

Mr Eddy: Excellent, thank you. I was hoping we'd have access to them.

The Chair: No further questions?

Mr Mills: I'd like to introduce Mr Brian Riddell, who is an assistant deputy minister of Municipal Affairs. Brian has a presentation he would like to make. Brian, would you go ahead.

Mr Brian Riddell: I want to take the opportunity this morning to give a bit of context to how we got to this point in Bill 75 in terms of the London area as well as to provide some more detailed information and briefings to the members of the committee by staff of the Ministry of Municipal Affairs, who will join me at the table following some brief introductory remarks.

Certainly, in terms of the context, and as Mr Mills indicated, the London area had specific needs that had to be addressed and have to be addressed. The fact that the Ministry of Treasury and Economics has identified this area as, I believe, the second-highest growth area over the next 20 to 30 years points significantly to the need to ensure that the area is prepared to deal with the kind of challenges that it's going to be faced with.

In addition, I think that a number of members of the committee will be aware of the environmental issues and problems that exist in a lot of areas of Ontario but particularly in the London area, in the area surrounding London and in some of the areas of Middlesex county. There have been a number of developments in the area around the city and in the county that have been developed on private services, particularly septic tanks and wells for water. In the case of the South Winds subdivision in the community of Lambeth within the town of Westminster, a subdivision that contains approximately 180 homes, after about two years the septic tanks failed, creating a very significant health and environmental problem. The costs to fix that are significant. The fixing of that is something that is going to require the installation of services and the ability to treat those wastes that come from that area.

In addition to that, there have been a number of other concerns expressed by the London-Middlesex health department about septic tanks and their operation and their capability within the area. The London-Middlesex health department has been very reluctant to approve new development on septic tanks because of that concern.

The other significant area, and it's an area that—

Mr Eddy: Point of information: Could I, just at this time, point out that the London-Middlesex district health unit is no longer responsible for septic tank health inspection. It relinquished that mandate to the Ministry of the Environment approximately a year ago, maybe a little longer. I think that's the case, is it not?

Mr Riddell: I'm not aware of that.

Mrs Mathysen: Yes, that's the case.

Mr Eddy: Is that the case? Thank you, member.

Mr Riddell: Maybe we could point out some of these things at the end, but I guess all members—

Mr Eddy: Yes, I'm sorry. I don't mean to do it to interrupt; I'm doing it in a manner to correct the stance. I think it's wrong to be saying what the health unit says when the health unit is not involved and has not been involved. They were at the time of the South Winds development, but I point out that it was the Middlesex-London Health Unit, so it would have been approved by the health unit whether it was in the city or the county.

The Chair: Okay, that's fine; thanks.

Mr Eddy: It's just a point of information.

Mr Riddell: I appreciate the correction, and I would add that in discussions with the Ministry of the Environment, I think it's fair to say it is having the same kind of concerns. Nothing has changed, really, because there are no new technologies. It's the general question of, how do you safely provide services in rural areas where the costs of providing good pipe services or safe pipe services are prohibitive in many cases? That is an issue that either the district health unit or the Ministry of the Environment, depending on who is the delegated authority in any area of the province, is grappling with, particularly in areas like Middlesex county and some of the areas in eastern Ontario where the soils are not capable of handling the kinds of loads that are being put on them by today's demands.

The other significant factor in the London area, of course, is the fact that in this area, in Middlesex county particularly, you have one of the best agricultural areas in Ontario. There have been a number of indications in terms of the amount of agricultural land, class 1, class 2 land, in this area but it is significant, and that is one of the other issues that had to be dealt with: How do you adequately protect that very scarce resource, that non-renewable resource?

Bill 75 also undertook several ways of dealing with the viability of the county. I think certainly the fact that the county is losing a fairly significant proportion of its assessment is a factor that plays very largely in this bill.

In addition to that, the arbitrator, Mr Brant, identified the need to provide capital money, an amount of \$2 million a year over three years beginning in 1994, from the city to the county, to be used to assist and stimulate good growth and development in those areas of the county that the county had identified through a new official plan, and that money would not be able to be used by the county until it had developed a new official plan.

The issue of suburban roads is probably one of the areas that was of most concern to the county. They brought this up very early in discussions with us at the transition committee meetings. We worked very closely with the county, the county engineer, the Ministry of Transportation, the regional office, the district office in London, district 2, as well as the head office in Timmins, to come up with a way of dealing with the suburban roads issue, as Mr Mills indicated, that would see the funding of suburban roads

continued in perpetuity, similar to the Brantford model, which some of you may be familiar with.

The negotiations process in terms of boundary negotiations in the London area really commenced formally with an application by London under the Municipal Boundary Negotiations Act in 1988. Fact-finding began in 1989. As a result of that, there was another round of negotiations with the parties during 1990 and 1991. Unfortunately, and maybe typically, though, in cases like this, there was no agreement among the local municipalities as to an appropriate solution to deal with the annexation issue. As a result of this impasse, the chief negotiator's third report recommended a consultation process leading to legislation with specific expression of provincial interest or the kind of things that should be included in any consultation process.

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As you're aware, the minister appointed the arbitrator, John Brant, in January 1992. In his charge he was given some very specific terms of reference. Generally, those are to ensure that the economic development potential of the area, both London and the surrounding area, is maximized, to do everything to ensure that the environment and the natural areas are protected and in fact enhanced, and that servicing—which is really one of the major issues in terms of how that area is going to grow and develop—is done in a very cost-effective and environmentally sensitive way.

The minister indicated that the arbitrator would have 60 days during which he would consult and provide a report to the minister. The minister did at that time commit to implement the Brant report. That report was presented to the minister in late March of this year, and as a result of that, the minister accepted the report and announced, in early April in London, his intention to proceed.

Bill 75, in terms of its development and evolution, is based very much on the principles which are enshrined in the Brant report, particularly the principles of ensuring the separation of the rural and urban areas. As well, Mr Brant talks about the fact that the greater London area presents a co-opportunity. What he meant by that was that the county and that area, as well as the city, have coexisted for a number of years and that on the basis of that coexistence the whole area has benefited. The city has benefited because of the existence of the county. The county has certainly benefited, I think, because of the existence of London. That kind of coexistence and co-opportunity is something that should be looked at as a basic principle in terms of the future.

One of the elements of Bill 75 which will be discussed in a little more detail, but may be worth talking about now, is the fact that in terms of good planning in the area, there's a need for London to develop good new official plans to deal with the new areas that are going to be part of London after January 1, 1993. The critical components in those planning processes will certainly include compact development, environmental sensitivity and good, responsible development as well as the protection of agricultural and rural areas. A number of elements of the bill and the regulations and the amendments address how that can be done. The buffer zone particularly, I think, is a very strong indication of Mr Brant's intent to ensure the separation of the rural and urban areas.

In terms of financing, the bill and its amendments ensure that the county is compensated for lost assessment, as well as provided with a capital fund, which I mentioned, of \$6 million, and certainly recognize the new cost arrangement for suburban roads, based upon the Brantford model.

The public hearings in London that Mr Mills mentioned were attended by a number of interested individuals and groups. Some 62 presentations were made at those sessions, and many of the good suggestions were incorporated, particularly in terms of land use planning, good development and the buffer zone. The idea of a rural advisory committee, again, was a suggestion that came out of those hearings, and is something we're moving on.

At the same time, the county made the very strong point that the compensation that was required to deal with the lost assessment was a very critical element to it. The minister at that time indicated that he would do whatever had to be done to ensure that the ratepayers in the area—and by the area is meant the city, the county, the annexed area, as well as those areas outside the annexed area still remaining in the county—would be protected from significant tax increases for a five-year period.

During his announcement in early April setting up this transition, the minister announced the formulation of a transition steering committee. That committee is represented by elected heads of the municipalities in the areas well as the public utilities commissions, both the PUC for London and for the town of Westminster, and a technical coordinating committee which is represented by the clerks, the CAOs, depending on where you are, or the city manager, for all the area municipalities plus the PUCs.

The transition teams have been moving together over this period of time to develop a very comprehensive work plan that was approved by the steering committee in June of this year. Work has been continuing on a very active front on things like workforce issues, service issues, financial issues, compensation issues and a number of other issues related to the transition, the move to new boundaries as of January 1, 1993. That work is continuing and the result will be that as of the end of December of this year, the kind of things that have to be done for the new municipalities on January 1, 1993, will be in place.

At this time I would like to turn it over to Taras Myhal who will talk a little bit more about some of the provisions in Bill 75.

Mr Bernard Grandmaître (Ottawa East): Is it proper, Mr Chair, to ask the deputy minister some questions on his presentation?

The Chair: I think if we had some questions before—do you mind? I think there only seems to be one. Just a short one?

Mr Grandmaître: No, it's not a short question.

Mr Mills: I think, Mr Chairman, that if we had the complete package—presentation and financial—and both gentlemen will remain, then you can direct your questions to either one. I think that would be appropriate for the continuity of the presentation.

The Chair: Okay. We'll carry on. The people will still be there to be asked questions.

Mr Taras Myhal: My name is Myhal. I am with the municipal boundaries branch with the Ministry of Municipal Affairs. I will be dealing with some of the general provisions of Bill 75 and its amendments and there will be two other staff persons: Zdravko Weing from the plans administration branch will be speaking on planning provisions of the bill and Kate Chinnery from the municipal finance branch will be dealing with some of the financial provisions of the bill.

On the question of the general provisions, I'll start with the boundaries, the actual annexations being dealt with through the bill. The major one is the annexation of 64,000 acres from the town of Westminster and four townships that surround London, the townships of North Dorchester, Delaware, London and West Nissouri, that will form part of the new city of London.

There are also some minor annexations being dealt with through the bill. Small portions of the town of Westminster will be annexed to the township of North Dorchester and to the township of Delaware. Part of the township of London will be annexed to the township of West Nissouri. There's also one other minor annexation being dealt with: The village of Belmont, which is part of Elgin county for municipal purposes, is receiving some lands from the town of Westminster and from the township of North Dorchester.

Those are the annexations. The bill also speaks to a buffer zone which does not encompass annexations or boundary changes but is a planning zone that surrounds the new city of London.

On the question of representation, the new London city council until the 1994 municipal elections will be comprised of the current mayor, the board of control, existing ward councillors and also, to represent the newly annexed areas, the current mayor of the town of Westminster. At the time of the 1994 municipal elections, the Minister of Municipal Affairs may, by regulation, redefine the wards of the new city of London. Subsequent to the 1994 municipal elections, the wards would be redefined by the standard Ontario Municipal Board process.

To ensure continuation of bylaws and resolutions on the annexed areas, the bylaws and resolutions of those municipalities whose areas are being annexed into the city of London will become bylaws of the city of London. For the other annexed areas, the bylaws and resolutions of those municipalities and of the county of Middlesex will be dealt with in a comparable fashion.

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On the question of the public utilities commission, both the city of London and the town of Westminster have public utilities commissions that will be disbanded as of January 1, 1993, the implementation date for the bill.

The functions of water supply and parks and recreation that are currently part of the London PUC will become part of the city administration. There will be a new hydro-electric commission formed which will take over the electricity function of the current public utilities commission. The responsibility for the provision of electricity in the annexed areas will continue to be Ontario Hydro's until

such time as the city decides to expand its service area into those areas, which can be done over time.

Representation on the hydro-electric commission until the 1994 municipal elections will be the existing city PUC members and, to represent the newly annexed areas, the chair of the Westminster PUC. After the 1994 elections the hydro-electric commission will be appointed by city council.

As part of the bill, the suburban roads commission will be disbanded.

On the question of libraries, there are existing libraries in Westminster within Glanworth and Lambeth, and they will continue to operate at least through December 31, 1997; they'll be operated by the city of London.

On volunteer firefighters, Westminster currently has volunteer firefighters. Through the bill and its amendments, there will be an ability for those firefighters to continue to provide services within the new city of London.

On the question of schools, Bill 75 doesn't alter school board boundaries. There is currently a committee of Middlesex and London public school board representatives that is looking at that issue.

Bill 75 and its amendments also provide for the establishment of a rural advisory committee within the city of London. That committee will address rural issues in the new city of London.

I'd like to now call on Zdravko Weing of the plans administration branch. He'll go through some of the planning provisions of the bill.

Mr Eddy: Could I just point out, while we're waiting, that I don't think it was clarified why the board of education boundaries are a problem? The city of London and Middlesex county were not united in one board of education. There were five cities in Ontario that were not joined with their counties when county boards of education were established. Three of the cities are now in regional municipalities, the other two are Windsor and London, and in those cases the counties have a public board of education and the cities have a public board of education. The separate school boards are joint. That's the reason it's more of a problem in this area.

Mr Zdravko Weing: My name is Zdravko Weing. I am a senior planner with the plans administration branch of the ministry.

My presentation today will last about 10 to 15 minutes and it will deal with two major areas. One is planning matters in so far as they affect the new, expanded future city of London, and another one is with regard to the buffer area surrounding the future city of London. I'll be referring to these two maps.

With regard to the first area, my presentation will deal with three components. The first component will deal with the new future official plan for the city of London, the second component with interim controls in the annexed area until the new official plan comes into being, and the third one is the area of subsequent control after the new official plan is approved by the province.

In so far as the new official plan is concerned, Bill 75 allows two years for the city to prepare the new official plan and to adopt it and submit it to the ministry for

approval. The bill also stipulates that the new official plan should cover the total area, meaning the existing city of London and the 64,000 acres proposed to be annexed.

The ministry is now proposing two revisions to it. First, we feel that in order to prepare a strategic vision and social services plan, referred to earlier in the presentation, the city needs a little bit more time than two years. The revisions to the bill would allocate three years for the preparation of the new plan. In addition, the city will be preparing a variety of studies which are required by the Planning Act, and for that purpose it may need about three years. In addition, the revisions would allow the minister, through his regulation, to extend the three-year period if need be in the future.

There is another revision to this section of the bill. This revision would provide the minister with the opportunity to request the city of London to revisit some of the sections or some of the components of the present official plan, which was approved by the ministry in 1991. This is an up-to-date plan which was intended to govern the use of land for the next 20 years, and this plan might need some updating. Otherwise, the bill would request that the new plan be prepared for the annexed area of 64,000 acres plus components of the old plan.

In so far as the content of the official plan is concerned, the advisory committees and the public participation process, there are no changes proposed to the bill. Ministry staff is in the process of consulting the city staff with regard to those components that will be included in ministerial regulations. This is with regard to the official plan.

Interim controls on the annexed lands before a new official plan is approved by the minister: What we have done on this map is plot for you the boundary of the annexed area. We shaded in grey the present city of London area. In the area which is proposed to be annexed, we have plotted official plan designations, those official plan designations that are in existence today and that the city is going to inherit and be responsible for on January 1.

The majority of the area is designated agricultural. Some lands, which are shaded in green, are designated industrial; commercial in blue; and pink are the hamlets and the villages, the village of Lambeth and the village of Hyde Park.

Revisions to the bill would allow that in the agricultural area the use of land be governed by the existing official plans. In so far as four urban areas are concerned—two industrial areas in the town of Westminster and the village of Lambeth and the village of Hyde Park—the revisions to the bill will not permit any development to occur unless full municipal services will be provided. In addition, the bill provides for the ministry to control and give approval to the extension of municipal services from the city into these four areas.

1100

The revised bill provides the minister with the ability, through his regulation, to add additional lands to the area which is subject to restrictions. For example, lands here or somewhere else which were controlled over urban development should be extended. The regulation would also allow the minister to delete lands from the four areas

where restrictions apply. For example, if there is an existing lot in the middle of a village which would qualify for private services and would pass the tests of the Ministry of the Environment to obtain a septic tank permit, then the minister can amend the regulation to permit infilling on such a lot.

Now a few words about the land use controls that would be in place after the new official plan comes into being. Bill 75 provides for control of agricultural areas for 10 years after the new official plan is approved. We are proposing one minor revision to the bill, which would enable the minister, through his regulation, to permit minor official plan amendments and changes in so far as the list of permissible uses is concerned, if such uses are compatible with agricultural activities. Those types of uses will be listed in ministerial regulations. This is with regard to the city of London.

With regard to the buffer area, the buffer area is outlined with a red line. It consists of approximately 48,000 acres, and it covers five townships. We have plotted on this map all official plan land use designations. The white area is designated agricultural, brown is designated residential, green is designated industrial and blue is commercial. Only 5.1% of the buffer area is slated for urban development, in accordance with those official plans. Approximately one half of that has already been developed and another half is available to be developed, in accordance with those official plans.

The official plans are relatively new. They were approved by the ministry in the late 1980s and one in 1990. Two brand-new official plans are right now before the ministry, for Lobo and North Dorchester, and these two will be approved in December of this year.

Based on the very good protection of agricultural lands that these five official plans would provide, we are recommending changes to the bill which would in essence allow the use of land in the buffer area to be governed by those five official plans. In addition, revisions to the bill would permit the minister, through his regulations, to indicate which compatible land uses could be permitted in the future within the buffer area so the buffer area would remain truly a buffer. This is the extent of my presentation.

The Chair: Mr Mills, do you have anyone else presenting?

Mr Mills: Yes, one more person, Dr Kathleen Chinnery. She is a senior economist with the Ministry of Municipal Affairs.

Dr Kathleen M. Chinnery: Good morning. My name is Dr Kathleen Chinnery. I'm a senior economist in the municipal finance branch of the ministry. I'll attempt to give you a brief overview of some of the major finance provisions contained in the bill. There are some minor technical amendments which, if we have time or you wish, I will go through as well. But I suggest we spend the majority of time on the major parts of the finance provisions, which include the compensation package, the tax rate provisions in 1993 and subsequent years, urban service areas, as well as suburban road payments.

In addition, Taras, in his presentation, did talk briefly about an amendment with regard to the volunteer fire department. In section 19 and section 24 of the bill we have provisions to protect employees of municipalities and employees of the public utilities commissions. The only amendment we are proposing is to extend the date of declaring these employees surplus in the municipalities and in the PUCs.

The regulation that's contained in section 19 protects employees by defining employee or retired employee, their benefit package, as well as seniority and pensions. This is a regulation which will allow the steering committee and the transition team to have some input into how employees and what, with regard to employees, may be protected as a result of this act.

I'd like to switch into the more finance discussion. I'd like to direct your attention to section 42 of the act, which discusses the proposed reassessment of the city of London in 1993 for 1994 tax purposes. As Mr Mills did state earlier, it is the general policy of the Ministry of Municipal Affairs that a reassessment is a decision of a local municipal council. For this reason, we are going to propose to take this out of section 42 so that at a future date the London city council can decide if it would like a reassessment and what type of reassessment. There are some consequential amendments as a result of removing this. I don't think I need to go through those at this time.

In addition, in section 42, because we are not forcing changes to the school board boundaries, we have removed the rest of the subsection to eliminate requirements to have two assessment rolls which, as I'm sure you can understand, is an administrative nightmare. This makes it much easier. Again, this is a consequential amendment.

Perhaps I could just move on to a discussion of how we're going to handle the phase-in of tax rates from 1993 to 2003. As Brian mentioned earlier, the ministry has decided that for the first five years following annexation there shall be no impact on taxpayers in the county of Middlesex nor to taxpayers who are in the areas annexed to the city of London. In section 43 of the act, we provide that 1993 tax rates in the areas that are annexed to the city will not increase any more than the general rate in the city of London. In accordance with that, we have a regulation which will prescribe the manner in which the city of London shall levy rates of taxation for that year.

The amendment we are proposing, which is contained in your package, is that we extend this protection to the municipalities in the county of Middlesex, because at this point it protects only those in the areas annexed to the city of London.

For tax rates for 1994 to 2003, in section 44 of the bill we have a minister's regulation whereby the minister can describe the phase-in of tax rates and tax increases over that period. We will be amending that to include, again, the municipalities remaining in the county which are affected by the annexation. That will make this section consistent with section 43.

In section 46 of the bill we have a discussion of the implementation of urban service areas in the new city of London. As it stands in the bill now, these urban service

areas were to be defined, the rates associated with those services and the extent of service provision defined by regulation for January 1, 1993.

1110

Because of the difficulty in determining the level of service provision and the associated costs that will accrue to the city of London, we have decided to change this to an implementation the next year, January 1, 1994. It will not mean that taxes in the areas annexed to the city will be increased astronomically. What it means is that, in section 43, the tax rates for 1993 are protected. There really isn't any problem with removing that provision for urban service areas in 1993.

I'd like to move on to the compensation package. In the Brant report and in Bill 75, in sections 48 and 49, we have a discussion of the total compensation package from the city of London to the county of Middlesex. This compensation package, as it was in the Brant report and in Bill 75, included a \$3.6-million payment over five years for loss of revenue due to loss of assessment. Another payment of \$6 million in total over three years was to provide the county with funds for capital development projects.

The other part of a compensation package was payments to compensate the county for the capital and operating costs for the suburban roads. This was based on their 1992 payment of approximately \$1 million, increased for any additional expenditures related to capital projects on roads. However, given, as Brian outlined, that we have made the decision to compensate the county of Middlesex and the local municipality so that no ratepayer feels any undue tax burden for five years, the compensation package will be enhanced.

The way in which we are intending to do this is to take out the parts of sections 48 and 49 which have specific reference to numbers such as \$3.6 million. The amendment we intend to propose is to put a minister's regulation in there whereby payments will be made from the city of London to the county of Middlesex and directly to the four local municipalities in the county in 1993 for 10 years. This was also in response to the public hearings process and consultations with the local municipalities and the county of Middlesex, which expressed concern over the level of compensation.

At this point we have presented over the past several weeks some numbers which have become publicly available to all of the local municipalities, the county and the city of London. We are at the present time discussing some of the actual numbers and whether these estimates are the most appropriate to be used. That's another reason why we are introducing the flexibility for that compensation in a regulation.

If I could just move on to the suburban road payments, as Brian introduced, we intend to compensate the county for suburban road costs in perpetuity. Instead of being based on the 1992 payment of approximately \$1 million and then inflated for expenditures on capital projects for roads, we intend to suggest that the payment would be based on one mill of the local assessment of the city of London, which is approximately \$1 million.

However, due to the fact that we are not in a position to judge whether the city council at any point in the future

will decide to have a reassessment in the city of London, we are going to suggest a regulation whereby the minister may adjust that payment of one mill rate in order to reflect actual expenditures on roads in the county of Middlesex.

Some other discussions which were presented at the public hearings with regard to the conservation authorities' levies concerned the municipalities that are being directly affected by the annexation, as well as other county municipalities, such as the township of Lobo, which are being negatively affected as a result of changes in the land area and the assessment base for conservation authorities in the London area. As a result, we are going to propose a minister's regulation whereby we can apportion the conservation authority levies in order that the levies are balanced among the municipalities remaining in the conservation authorities.

If you would like me to go on to some more technical amendments, I will do so, but I think that's enough.

Mr Mills: That's the ministry's presentation, Mr Chairman.

The Chair: Thank you, Mr Mills. Ben, do you still have that question—did you write it down?—that you were thinking about asking about one hour ago? You've got the floor.

Mr Grandmaître: I've got the floor.

Mr Sutherland: Just before we start, we're dividing up the 45 minutes equally then?

The Chair: Yes.

Mr Grandmaître: Forty-five minutes?

The Chair: Whenever the bell goes. It looks about 15 minutes each.

Mr Sutherland: Okay.

Mr Grandmaître: Yes, I have a number of questions, so instead of waiting or expecting an answer, I'll make this brief presentation and we can take it from there.

I realize that annexation is a very emotional time in people's minds, especially taxpayers. We're experiencing a very tough recession at the present time, and there's uncertainty in the air and people are concerned about their future, their job and their children. I think the timing of this annexation is not the best.

I realize that for some time the ministry has tried—even in our days as a government we tried to reach an agreement with London and Middlesex. At the same time, I find it very difficult to understand what the ministry or the minister is trying to do. I feel there's a rush job in this annexation and I'm very concerned.

I'm concerned not only for London, the London-Middlesex annexation; I'm very concerned about the process used to reach those conclusions. I'm concerned that the ministry will continue to use this high hand with future annexations.

Again, tripling the size of London is a big concern of mine, for a number of reasons. Back in the late 1980s—1988, 1989—it was not the intention of London to annex such a large portion of Middlesex and counties surrounding.

Why 64,000 acres, when only 7% of those 64,000 acres are zoned commercial or industrial at the present time?

Why 64,000, when maybe 90% of the annexation is agricultural land? Yet the annexation process initiated or launched by London was to improve its growth or potential, and I agree. I agree that London has been a fast-growing municipality and we must give it the tools, the opportunities to improve not only services, but its economic situation.

Again, I find that 64,000 acres is way too much. This is the largest, or maybe the largest, annexation in the province of Ontario, so I want to find out the logic behind such a large annexation and also the compensation. I don't want to deal with the compensation package at the present time, but I don't like it when they tell us that the package may be enhanced or the minister, through regulations, can do this, can do that. There are all kinds of uncertainties before us, and if I'm not mistaken, we were told yesterday afternoon some 27 amendments would be introduced. Am I right, 27?

1120

Mr Mills: They're in the book.

Mr Grandmaître: They're in the book? Well, I got it this morning.

Mr Mills: So did I.

Mr Grandmaître: So did you? That's called consultation. I feel a little reluctant—not reluctant to accept what staff are telling us; I have great faith in Municipal Affairs, but at the same time I do question—

Mr Mills: Not me, I hope.

Mr Grandmaître: Never, Gord. I would never question you.

Mr Sutherland: Which side of the fence are you leaning to now?

Mr Grandmaître: No, no, not exactly. I've gone through annexation before, I've gone through expropriation, and if you want to talk about that compensation package, I call this expropriation. That's what it is. The final compensation package isn't finalized yet. So we're going through expropriation.

I might as well get into your compensation package. I want to know, has everybody been advised or consulted about those 27 amendments before us, Gord?

Mr Mills: Whom do you mean, everybody?

Mr Grandmaître: Everybody concerned—the municipalities, the counties—have they been advised?

Mr Mills: I think the amendments have come about through consultation.

Mr Grandmaître: Through consultation.

Mr Mills: Yes.

Mr Grandmaître: But they haven't been discussed openly and publicly. You haven't had public consultation on those amendments.

Mr Mills: No, but many of the amendments are through presentations made. We've listened, as I said. We listened; they listened.

Mr Sutherland: Just to add to that, Mr Riddell in his presentation indicated that the majority of the amendments coming forward were the result of input from local people by their—

Mr Grandmaître: No, no, the transition team, if I'm not mistaken.

Mr Sutherland: Okay, transition team, but there are local people involved in the transition team.

Mr Grandmaître: There's a difference between a transition team and the general public. If you call this consultation, that's up to you.

The Chair: I know you have a lot of points. The clock's running.

Mr Grandmaître: Is that right?

The Chair: Can you get some of the answers back maybe from the staff, as it is now—

Mr Grandmaître: If you can stop these interruptions, Mr Chair, maybe I can—

The Chair: I know; that's why I cut in here.

Mr Grandmaître: If I can go back to the \$64,000 question. When only 7% of those 64,000 acres are presently zoned commercial or industrial and only 5% of the buffer zone is presently zoned for development, why such a wide buffer, Mr Chair?

The Chair: Okay, I'll ask.

Mr Grandmaître: No, that's only part of it. And how come the buffer zone wasn't expanded to the south side? Right now the buffer zone is only on three sides. Is this for future annexation or expropriation? I don't know.

Mr Chair, I know the time is running, but if I stop now to look at my notes, can I come back later with the rest of my questions?

The Chair: You have five minutes in your party time. Do you want any answers back on some of your comments here?

Mr Grandmaître: Absolutely.

The Chair: I think Mr Mills wanted to make some comments on your speech or question period.

Mr Grandmaître: Both. I hope Gord is not taking my time, though, in answering my questions.

Mr Mills: No.

Mr Grandmaître: Thanks, Gord.

Mr Mills: Perhaps Mr Riddell can make reference to the buffer zone.

Mr Grandmaître: The buffer zone and the logic behind the \$64,000 question.

Mr Mills: Yes. It's to prevent annexation, but perhaps, Mr Riddell, can you just—

Mr Riddell: The question of the size of the annexation is an issue that certainly has been raised in a number of places, particularly in the public hearings in London. While I mention that, I might just make a point here regarding the 27 amendments. A lot of those amendments came from the public hearings in London. A lot of them came, as well, from the transition process, which is the municipal representatives, so there is a component of both in them.

Mr Grandmaître: So they're public amendments?

Mr Riddell: The amendments coming from the public hearings in London I guess are public, yes.

Mr Grandmaître: Have they been distributed to the affected municipalities?

Mr Riddell: Not yet. This is the first time this committee has seen them.

Getting back to the buffers, or the annexation area, I think in terms of the logic—this is certainly something that I know the arbitrator went through when he was looking at the area and trying to make a determination as to the appropriate size. During the discussions among the municipalities that went on between 1989 and late 1991 there were a lot of different options that were on the table depending on which particular area you represented, I guess. Some of them were larger than others.

In essence, the thing that creates the difference is, if you look at the terms of reference that were provided to Mr Brant, the long-term economic recovery opportunities and the emphasis on long term, particularly the protection of the environment and the efficient provision of services to ensure economic growth and development, meant that certain areas like the Lambeth area and the area around Highway 135, certainly the key transportation corridors in this area, the 401 corridor specifically as well as the 402 corridor, were areas that should be included in the city of London, because the city of London would have the capability to deal with those kinds of objectives.

As well, the arbitrator felt that it was critical that the airport up in the northeast corner, currently in West Nissouri, be part of the city of London because that's really a key component in terms of London's long-term economic growth and development and the capability to service that as well.

When that was all looked at, and you look at the remaining lands, particularly in the town of Westminster, there was a very strong feeling that if you dealt with those kinds of objectives and criteria, there could be remaining a portion of land in the south, somewhere between the county line with Elgin and something to the north, a concession or two. But the question then became, how could this land be managed? It's essentially agricultural land. In some discussions that occurred during the summer months with a lot of the municipalities around, the concern, particularly of North Dorchester and Delaware when they were presented with this suggestion, was that they felt that unless somebody was prepared to compensate them in terms of pretty significant compensation into the future, although they didn't know the specifics of it, they weren't really prepared to take on these responsibilities for lands which would have to be serviced but for which there wasn't really development potential or return other than its existing agricultural use.

The Chair: You've got one minute left. Mr Eddy, do you have a question?

Mr Eddy: Yes. I am sorry; I had to go into the House. Did you make any statements?

Mr Grandmaître: Yes, I did. Statement plus questions.

Mr Eddy: Oh, you had the opportunity to make it. I wanted the opportunity for statements because I feel so strongly about this matter.

But coming back to the matter of the town of Westminster, I find it so strange that you consulted with the

council of the township of North Dorchester and the council of the township of Delaware about giving them something but you didn't talk to the council of the town of Westminster about taking everything away. It seems strange to me; it's just so strange. However, I guess that's what has happened in this process. I think we should deal with everybody equally.

1130

I was concerned that there weren't any members, other than the member for Middlesex, present today to be part of this procedure, noting that most of the members are from regional municipalities, including the restructured county of Oxford where there's not a separated city-county situation, because I think it's so important to recognize that it's two distinct, separate municipalities; however, with many joint services. I noted during the introduction by the parliamentary assistant, who is here instead of the minister, who, of course, is making at least some of the important decisions in this matter, that it wasn't recognized that the social agencies and services are indeed joint city-county services. They are all, the CAS and a whole host of them, indeed joint and serve both municipalities.

I was particularly concerned over the statement that this empowers or allows the greater London-Middlesex area to be prepared for great growth and development. There's no doubt about it; there's going to be great growth and development because of the superhighways that are in the area that are attracting—

The Chair: I've got to cut you off, Mr Eddy. I think you could read a whole text on this to us here.

Mr Eddy: Could I just finish my statement on this?

Mr Grandmaître: I think you should.

The Chair: How long is your statement?

Mr David Winninger (London South): Mr Carr will give you his time.

The Chair: Okay, Mr Carr's going to give you some of his time. It seems like Christmas here today.

Mr Carr: I'll give some to them, but I'll want it back at some point, and they'll owe me.

Mr Eddy: Yes, okay. You've thrown me, Mr Chair.

The Chair: You were throwing over the time. That's why I threw you.

Mr Eddy: Yes, agreed. Yes, you're quite correct. I agree with you.

The Chair: Okay, fine. Can you finish your statement then?

Mr Eddy: Yes, thank you. I've got it. Really, you're equipping the city of London because you're giving them everything. It's the city of London that's going to be equipped and you're disembowelling the county of Middlesex, because you're taking most of its industrial and commercial development and economic base, and indeed you're establishing a buffer zone of some 55,000 acres, neutering it. So there can be nothing.

The other thing I must correct is that Middlesex county is not an agricultural area; it's a mixture of towns and development. There are three towns, there are five villages,

and there are many urban service areas in the county of Middlesex that are completely urban, but in townships and in township governments. There's a large urban population. It isn't strictly rural.

I'd also like to point out that several of the municipalities are fully serviced—municipal water supply and municipal sewage treatment—including the town of Westminster, the town of Ailsa Craig, the town of Parkhill, the town of Glencoe, the town of Strathroy. It's not just an agricultural area and I think that has to be recognized. What you're doing is you're eviscerating a county and taking a large part of it away, and it's not just a rural agricultural area that you're robbing. Was that given consideration during the process: The fact that the county is made up of rural and urban and, indeed, you are taking a large portion of its space—not all of it, I recognize—and then you are taking the right for a much larger area? I know why there's a buffer zone, but I would have handled it in a much different way.

You mentioned the Brantford situation in connection with suburban roads. Are you aware of the Brantford situation with the mutual advisory planning area, where the area annexed to the city and an area in the county is controlled jointly through mutual planning? I wondered if that had been considered, because I see it as a better solution. You may not agree.

Mr Riddell: Perhaps I can comment on the point raised about the county, and I certainly agree that while the county does have some strong urban communities within it, there are, I think, some real issues that have to be addressed in some of those communities. I know, for instance, Strathroy is on well water right now and there's a question about how much longer those wells will be capable of providing any further growth. Water supply is another issue that's very important to the county in terms of any future growth.

I think that because of the annexation, and particularly the contribution the town of Westminster makes to the county with its economic assessment base, as the member indicated, it is certainly a significant share of the county's assessment.

Recognizing that the county has some opportunities, I think, is important as well, the fact that the \$6 million is important seed money for the county to use after it has developed its official plan, to try to identify in that official plan where the county feels the appropriate growth and development opportunities are as a county.

I am pleased to indicate that the county has already done a visioning session. They are entering into discussions now with consultants to do a strategic plan. They are hiring a replacement for the former CAO. As a result of all that, they will be developing, with our support, a new official plan which I think will go a long way in terms of providing those ideas to the county on how it can grow and develop in the future.

Mr Carr: First of all, I want to thank the ministry and the staff for going through the tremendous amount of preparation. I know Mrs Cunningham and Mr Murdoch were very pleased with the efforts last night. The packages you put together have laid things out. I want to thank you very much for that.

Hindsight being what it is, I wish members of this committee, with the ministry, could have done that outside the hours of this committee, because the big question we have this afternoon is that we've got 37 people and we're going to have to narrow that down to about nine.

There is some concern in the public, with the government saying there has been a lot of consultation and some of the public saying there has not. Unfortunately, the difficult task in the subcommittee this afternoon will be to pare that list down and try to get representation. If you look at the list, we've got agriculture people, people from the board of education, environmental groups and municipal officials. Looking back at it, I wish we had taken more time to do this and be together, which the ministry people can do along with the MPPs, and given more time to the public.

Having said that, I think from the information you've presented, we understand the government's position. I'm looking forward to getting on with hearing what the public is saying.

I know Ron was speaking in the House and missed the opportunity. I don't know what time is left, but in the interest of fairness, if he would like to take some of the time—I think Ms Mathysen may have some questions too—I'd be prepared to give my time over to that, with the understanding—I think this goes for all committees—that as we go along, if there are any questions or concerns we do have regarding the ministry, we can go directly to you on that, and once we've had a chance to go through the amendments. So I would be prepared to divide up the time to the other two parties if the ministry will give us a commitment that if we do have any questions as we go along, it will answer them.

The Chair: I just want to note that at 3:15, the subcommittee can meet in room 2. That's just next door here.

The other thing is that my colleague is in the House speaking today on a bill that addresses this particular issue also, that of a minister for rural affairs. I would like to be in there to vote at that time when the bell goes. If it goes at 11:55, then this committee will be adjourned.

We don't have that much time. The Liberals had approximately 20 minutes. You took about three minutes. Looking at the other side here, let's see if we can get back if Ron has other comments. I know Mr Mills has a comment. Maybe you could just address that comment before we go to the government party.

Mr Mills: There was some question by my colleague about input into the amendments. I'd just like to say that groups will be given the opportunity to look at the amendments, to make input during this committee.

I don't want to rap you on the knuckles, Bernard, but you said you were frightened of the iron hand, that we seem to be taking over. I can tell you very straightforwardly that we encourage municipalities to make their own decisions, to make their own solutions; witness to that is the Simcoe county restructuring. But this was very difficult; 11 years they didn't get to it, and that's the reason.

1140

Mr Grandmaître: However, however.

Ms Mathysen: I have a number of questions and I would like to leave some time for my colleague Mr Sutherland. Just indulge me for a moment. Mr Grandmaître, you were a Minister of Municipal Affairs. When was that?

Mr Grandmaître: In 1985.

Ms Mathysen: From 1985 to—

Mr Grandmaître: From 1985 to 1987.

Mr Mills: He was a better Minister of Revenue.

Ms Mathysen: To 1987? Okay, thank you.

Mr Grandmaître: He wasn't a bad employee, either.

Ms Mathysen: I have a number of questions. First of all, you mentioned that developments like South Winds were a significant problem in terms of the reason behind this extensive annexation. I just wondered how, when and by whom South Winds was approved.

My next question is, by whom was the 1988 London annexation proposal set aside?

My third question is, regarding this premise that regulations and a new official plan by the city of London will protect agricultural land within this new city, would regulations and a new official plan, or an official plan, period, in the county of Middlesex likewise protect this same agricultural land?

I pose my last question informally, but I would like to put it on the record because I would like clarification and I would like to see numbers. I understand that there will be a moratorium on taxes in the county of Middlesex and in the newly annexed area for five years and that London will be free to determine reassessments in 1993. But the whole cost of this package troubles me very much because some of my constituents are still city dwellers and they will, I fear, bear the cost.

I would like to put on the record that I am requesting:

— A full costing of the annexation, and I would like included the cost of the compensation package. I understand it will be about \$35 million. I expect it would be difficult to extrapolate the \$1 million in perpetuity for suburban roads, but certainly some kind of number around that, if it's possible.

— The cost of harmonizing PUC employees and city employees, because it's my understanding that PUC employees earn about \$7,000 more in wages and benefits than city employees. I would expect that if they are working for the city as a group, there would be a need to somehow accommodate those city employees who have a lesser level of wages and benefits.

— The cost of employing the county employees who will be displaced. I know that there are some 70 in the town of Westminster and I expect there would be more once this shakes out.

I know that in the interim, in the next year or so, the OPP will be looking after policing in the annexed area. However, eventually the city will have to pay for that, and it's my understanding that some 24 new staff people are required, a new radio service is required, obviously there will be some cars required, and if I'm not mistaken, there will be perhaps even more than one new substation for the police required, because it's not logical for a policeman or

a policewoman to go from Adelaide and Dundas all the way down to the Elgin county line on a call.

I'd like to know what the cost of extended fire protection, maintenance, snow plowing and caring for this new, extended road and the library is. It's my understanding that the Middlesex county library will be needing \$100,000 in compensation for the loss of tax base and the loss of benefits that it received by having that Westminster-Lambeth library. I would like to know who will pay for that compensation.

Lastly, education: If there is going to be a moratorium on taxes in the county of Middlesex, does that include education taxes? Because notwithstanding this local arrangement between the London and Middlesex board that still hasn't materialized, I have some fears around the impact of this annexation on the Middlesex board.

I know, for example, that London would like to simply service and take over the three schools in Westminster. There is a capital cost—those buildings are worth about \$3 million—and the teachers who serve there have a retirement gratuity package with the Middlesex board—London does not have such a retirement gratuity—and the payoff of that retirement gratuity is between \$1.5 million and \$2.5 million.

There are support staff from the Middlesex board of education. Unfortunately for those people, London is downsizing its support staff. How will those people who will be displaced and may not be employed be accommodated? Is there going to be a compensation package there?

I haven't mentioned hard services. London is responsible for hard services to Hyde Park, to Canterbury Estates in Hyde Park, to South Winds. While I'm familiar with the \$3.5 million that is coming from the Ministry of the Environment, I would assume there would be some future costs in terms of hard servicing in respect to the 135 White Oaks Side Road area. And obviously, viewing the map, we see that there are future areas intended for industrial commercial development; hard services must go there.

Whatever I haven't been able to mention here—I'm sure I've lost or omitted something—I would like to know, in as close a ballpark figure as you can manage, what the final cost to those taxpayers in the city of London will be and an anticipation of how soon we could see the effects of the cost on those London taxpayers.

The Chair: I don't believe they have all the answers up front—

Mrs Mathysen: No. That, unfortunately, Mr Chair, is the problem: We don't have them all.

The Chair: But what we can do is that as soon as the answers are available, could they be addressed to the clerk here so the clerk can send it to each member of the committee before we meet next time? Is that—

Mrs Mathysen: No, I wonder, about those first two questions—

The Chair: Are there any questions that can be answered today?

Mr Riddell: On the South Winds question, I'm sorry, I don't have the information with me. We'll have to undertake to get that to the committee in the next day or so.

Mrs Mathysen: I believe it was in 1984-85, something like that, that it was approved.

The Chair: What was the second question?

Mrs Mathysen: By whom was the London 1988 proposed annexation set aside?

Mr Riddell: That proposal, as we reviewed it in the Ministry of Municipal Affairs, was seen as not comprehensive enough in terms of its application. It didn't include the Lambeth area which it was felt was very important. As a result of that, that's why we made that decision.

Mrs Mathysen: And that was in 1989?

Mr Riddell: In 1989, yes.

Mr Ron Eddy: Any reason?

The Chair: The thing is that with these questions that have been asked, rather than get them all at once, maybe if you have two or three that are answered or come through to the clerk and then maybe some would take a little bit longer, some of those—

Mr Grandmaître: There are so many questions, Mr Chair.

The Chair: Yes, there are so many questions. Send as many as you can through as quickly as possible for the committee, if that's possible.

Dr Chinnery: Can I just clarify one thing? Irene, the education taxes are not being protected in 1993 or succeeding years. It's the general mill rate for municipal purposes.

Mrs Mathysen: So if Middlesex is financially disadvantaged, then the ratepayers in Middlesex will be looking at the consequences of that.

Dr Chinnery: What we're saying is that we're protecting the municipal taxes. Because we are not doing anything with the boundaries of the school boards, we're not putting any restrictions on the school boards. That wouldn't be appropriate, I don't think.

Mr Sutherland: I wanted to come back to the question of the farm land in the southern part of the town of Westminster and the proposal that was put forward.

At this time, I want to give some credit to my colleague the member for Middlesex, who has throughout this entire effort tried to see what compromises were available.

Mr Riddell, you mentioned in response to that earlier that there were some proposals to make the annexation smaller regarding some of the land in the southern part of the town of Westminster. That had been offered to a couple of the townships and those townships had decided that they needed significant compensation to receive them?

1150

Mr Riddell: I believe that was the discussion that happened during the summer. There were discussions with all the municipalities in the area, and it's my understanding that as a result of a proposal on the table that looked at a new line in Westminster, both those municipalities that I mentioned expressed concern, as I indicated, around compensation, in terms of longer-term compensation, if they were to even consider taking those lands.

Mr Sutherland: Did the townships state at the time how much compensation they were looking at specifically for that?

Mr Riddell: I don't believe they knew. It was just an indication on their part that they were concerned that they would be asked to take over lands that they would have to provide services for but didn't have an ability to recover.

Mr Sutherland: The townships said, "We want compensation," but they didn't put any specific proposal on the table to be considered?

Mr Riddell: Not to my knowledge.

Mr Sutherland: Okay, thank you.

The Chair: Mr Eddy.

Mr Eddy: One follow-up question immediately is, were the people in the area consulted? The areas are so small. I really don't think they attract much attention, because the percentage in those two areas is so small in comparison to the vast agricultural class 1 and 2 lands in the town of Westminster that are going down the drain. That's why I say it's hardly worth talking about. We know, as a matter of fact, that with this deal the township of North Dorchester, if I may call it that, does not see its future lying with the county of Middlesex. It sees its destiny with the county of Oxford, and that's what you're doing because you're not looking at these things properly.

I cannot understand for the life of me why—well, you are of course Ministry of Municipal Affairs staff—the education mess is being left. Why is it being ignored and left? I think it's irresponsible to leave it, to ignore it to the extent you are, saying, "Oh well, the two boards of education, the Middlesex County Board of Education and the London Board of Education, can get together and work this out someplace, some time, perhaps." That is very poor. Everything else is being forced down people's throats, so to speak.

The Chair: Mr Eddy, I was trying to split the time as equally as possible. I thought you had a little comment to make or a question. Do you want a reply on that?

Mr Eddy: Is the education—

Mr Sutherland: Mr Chair, I want to just ask a question about time. Do we still have our time as the governing side?

The Chair: Yes. You stopped asking questions, so that's why I went back to rotation.

Mr Sutherland: I just wanted to ask that question. I think it's one thing to say you want compensation, but you have to put some proposal on the table before anything can be seriously evaluated in terms of any type of negotiation actually going on with respect to that issue. I just wanted to get that clarified as to whether something specifically had been put on the table by the townships.

The Chair: Any other government members with any more questions?

Mr Winninger: How much time remains, Mr Chair?

The Chair: You've got about three minutes, because we're coming up to the vote in the House.

Mr Winninger: I'd like to get back to the point raised by Mr Grandmaître about the 64,000 acres and why that's required. Unfortunately, because I had to debate in the House earlier, I couldn't hear all of your presentation, but I gather there are ongoing concerns with the extent to which London is presently growing. It's been identified as one of the fastest-growing centres. For sensible, rational future planning, we need to look at a wide area around London to ensure that we can protect valuable agricultural land and environmentally sensitive areas, so there can be proper planning for transit, schools and so on.

I wonder if the ministry, either through the parliamentary assistant or its senior officials, could respond directly to the question as to why we're looking at 64,000 acres.

Mr Grandmaître: I did ask that question: Why 64,000 acres?

Mr Eddy: The city doesn't want it.

Interjections.

The Chair: I'm trying to figure out who the parliamentary assistant is here.

Mr Mills: Well, they keep interrupting. Westminster didn't want it either. Once you've taken the tax base, Westminster didn't want it either. I think it's fair to say that the annexation, no matter how small or how big, the tax base would have gone anyway; and I just want to add the areas around wanting compensation in perpetuity, or the ability to develop it if they took the agricultural land.

Mr Winninger: I'm not sure you answered my question, but I think—and maybe you can confirm this—that the reason we're looking at this large area is for proper planning for future development, given that a lot of industry is attracted to London and needs well-serviced lands to develop on.

Quite frankly, in my own riding of London South, we're right at the boundary of the city; the neighbourhoods creep right up to the city boundary line. So in terms of the growth we're experiencing, particularly in the southern part of London, there has to be somewhere for those people to live. For that reason we need to develop some well-planned, well-structured residential areas and also industrial areas to service the growing need for industry.

The Chair: Any other questions?

Mr Winninger: No, Mr Chair.

The Chair: Fine. You've got a couple of minutes, Mr Eddy. Did you have other comments? I know you were thinking out loud there for a while; I could hear you talking.

Mr Eddy: I'm going to have a few problems. You're going to have some problems with me on this one, because I just don't understand the member's—I don't think the member has really looked into this, because there was agreement. There is lots of open land that can be annexed to the city of London in the town of Westminster that will not destroy its tax base; that will not take a lot of land out of agriculture, because it's owned by developers; that will meet the city's need to the year 2026, as the city's report indicated. It's all there, it's all in place and it can be easily transferred and not destroy a county and not eliminate a municipality.

Mr Winner: But it wouldn't be properly serviced.

Mr Eddy: Well, it can be serviced—

Mr Winner: The history doesn't show that.

Mr Eddy: The city of London can service it. It's available to them; it's adjoining two areas that are serviced and being serviced. It has rail and road facilities. It's there.

The Chair: It'll be very important to the point that when you're picking your witnesses to come before the committee, maybe these are some of the issues you want

to bring forward with your witnesses. Since you're on the subcommittee, you'll have an opportunity to bring people forward who could represent this point of view.

As it's getting close to 12 and it looks like they're just winding up in the House—the vote will be coming—I'd like to adjourn this committee until 3:30 this afternoon, and 3:15 for the subcommittee meeting. Thank you.

The committee recessed at 1158.

AFTERNOON SITTING

The committee resumed at 1605.

The Chair: I would like to call the standing committee on finance and economic affairs to order. This afternoon we're on Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex. I'd like to welcome you all here this afternoon.

COUNTY OF MIDDLESEX

The Chair: Our first presenter is Frank Gare, warden, Middlesex county. Would you come forward, please, and start your presentation. This is a total of an hour. We're going to have to cut back a little bit because of the House, maybe to about 50 minutes, so we can get everybody in today. Perhaps you can leave some time at the end for questions from the committee members. Welcome to the committee. Would you please introduce your associate also, his name and position, for the purposes of Hansard.

Mr Frank Gare: Thank you. Of course, my name is Frank Gare, as has been mentioned. The gentleman with me is Don Hudson. He's the acting clerk of the county of Middlesex. I'm the warden of Middlesex county.

I believe it's important to stress at the very beginning that Middlesex county is not against annexation as such. We do, however, want to ensure that any agreement or legislation regarding annexation represents the best agreement or legislation possible for residents of both the county of Middlesex and the city of London. We do not believe that Bill 75, the piece of legislation we are discussing here today, represents the best agreement for the county or the city.

There are currently 41 annexation disputes under way throughout Ontario. We believe the Middlesex experience establishes a dangerous precedent for the settlement of boundary disputes and therefore goes beyond a local issue. In our presentation today, I'll outline the county's concerns with Bill 75, the economic impact this legislation will have on the county and the city of London and the county's alternatives to what has been proposed in the legislation.

The county's concerns with Bill 75 focus on four areas of the legislation: the establishment of the boundary lines and the amount of land to be annexed; the compensation to the municipalities in the county for the loss of revenues through annexation of land; the elimination of the suburban roads commission, and the establishment of a buffer zone. I would like to spend the next few minutes reviewing the county's concerns in these four areas.

With regard to the boundary lines and the amount of land to be annexed, currently Bill 75 proposes the annexation of approximately 64,000 acres of land, largely agricultural, from the county of Middlesex to the city of London. As a result of this legislation, the entire town of Westminster will be annexed to the city of London. In addition, the townships of West Nissouri, North Dorchester, Delaware and London township will all have portions of their municipalities annexed to the city of London. Through annexation, the

city of London will also become 80% of the size of Metropolitan Toronto.

Annexation will have a tremendous impact on the county of Middlesex. The county will lose 28.6% of its tax assessment base and about 15% of its population due to annexation. As a result of this dramatic loss in the tax assessment base and this serious loss in revenue, the county has expressed serious concerns to the Minister of Municipal Affairs about its ability to provide quality service to residents of the county.

Also, annexation means that the county will be losing valuable agricultural land, since the majority of the land designated by the legislation to be annexed is undeveloped agricultural land. Only 7% of the land being annexed, 4,000 to 5,000 acres, is designated as land for commercial or development use.

Those townships that are directly affected by annexation and losing portions of their land base to the city of London have also expressed serious concerns about their ability to remain economically viable after annexation. In fact it's worth noting that the township of West Nissouri has been discussing amalgamation with a township in Oxford county. They believe that amalgamation is a better alternative for them than annexation and that it is more economically feasible to amalgamate than to try and operate as a township after annexation. West Nissouri has already alerted its municipal employees that it may not continue to exist after January 1, 1993.

With regard to compensation to the county and the affected municipalities, as mentioned, the county is losing 28.6% of its tax assessment base as a result of annexation. We cannot continue to provide services to the residents without financial assistance from the city of London.

Bill 75 proposes about \$20 million in compensation. However, half of this \$20 million includes money the county would have received anyway through the suburban roads program. The \$10 million in compensation is simply not enough to offset the loss in revenue the county and the municipalities will experience as a result of this annexation.

Bill 75 also proposes that the compensation be paid in a lump sum to the county from the city of London and that the county be given the responsibility for distributing the financial assistance among the municipalities. The county believes that determining financial assistance is a provincial responsibility. Therefore, the compensation given to each municipality should be detailed in legislation and not determined at a later date by the county.

We go now to suburban roads. Under Bill 75, the suburban roads commission is eliminated and the maintenance of all arterial roads becomes the responsibility of the county. For those of you not familiar with the suburban roads commission, it's a joint commission between the city and the county which shares the funding and management responsibility for maintaining the arterial roads in Middlesex county that in fact do feed the city of London. If you increase the size of London, you increase the traffic on those arterial roads, you increase the cost of maintenance

and everything else that goes with it. We drop our assessment but we raise the costs.

Bill 75 stipulates that while the city of London will compensate the county in lieu of suburban roads contributions, the money is to be placed in a special reserve fund to be used for water and sewer development, in addition to road repairs. Also, the county may not take more than 50% of the expenditures for the road repairs from this fund. This means the county must contribute half the cost of the road repairs, despite losing 28.6% of its assessment base. This is simply not possible with the economic restraints the county would be facing as a result of annexation.

Bill 75 also states that the city's contribution in lieu of suburban roads funding will stop after 10 years. Therefore, in year 11, the county could potentially find itself in the situation of no funding for suburban roads, since the money in the fund may already have been used for water and sewer development.

The buffer zone: In addition to annexing 64,000 acres of land to the city of London, Bill 75 also establishes a three-kilometre buffer zone around the boundary of the land being annexed to the city of London. No development will be allowed in the buffer zone without full urban services, with the exception of farm-related development. While the province has stated that this buffer zone would prevent urban sprawl, the reality is that urban development would simply jump over the buffer zone and continue on the other side. Also, a buffer zone will not protect the development of agricultural land, since development will simply go around the zone or delay until the zone is removed.

Middlesex county is one of the top three counties in all of Canada in terms of the value of agricultural assets and agricultural output. The only way to control that would be official plans properly put in, with the proper rules and regulations to control this. The buffer zone really isn't necessary if you put the proper plans in. If you have faith in the Planning Act, then the buffer zone really isn't necessary.

The economic impact of annexation: One of the county's gravest concerns with Bill 75 is the economic impact that the legislation will have on the residents of the county. As a result of this annexation, residents in the county face an estimated 45% increase in their county taxes, since the county is losing almost 30% of its tax base, most of that being industrial and commercial.

Residents of Metro Toronto are currently concerned about the enormous increases they face under market value assessment, yet the increase in Middlesex county municipal taxes resulting from annexation is as great or greater than any increase those residents face. At a time when people are dealing with the economic hardships of the recession, the people of Middlesex county simply cannot afford to pay the increase of 45% in their taxes.

The substantial loss of revenue for the county because of annexation will also have an impact on the services which the county provides to its residents.

The Chair: I'm sorry, we're going to have to stop. Have we got a vote going on?

Mr Winninger: It's on the introduction of a bill.

The Chair: Okay. We're just going to have to stop and go up to the House and come back and resume.

The committee recessed at 1614 and resumed at 1627.

The Chair: We'll resume the hearings here. Mr Gare—actually, we started a little bit earlier. We didn't have orders of the day yet, but I tried to get the committee going a little bit earlier there. Sometimes we're like firemen: We have to put out a fire. So we're back again—false alarm. Okay, carry on.

Mr Gare: Thank you, Mr Hansen. Back to the bottom of page 4, if I could.

The substantial loss of revenue for the county because of annexation will also have an impact on the services which the county provides to its residents. Despite the fact that the county will have less money, it will be expected to provide the same quality of service, whether it be roads, schools or health services, as it did prior to annexation. The compensation package, as outlined in Bill 75, is not enough to help the municipalities in the county maintain their commitment to offering top-quality services to their residents.

It's our understanding that the ministry indicated this morning that it will amend Bill 75 so the tax rates in 1993 in the annexed areas will not increase any more than the tax rates in the city of London. However, it should be noted that London taxpayers may face huge increases to pay for the enhanced compensation package and the provision of services to newly annexed areas and residents.

We're also concerned about the ministry's announcement this morning that the bill will be amended to permit the minister to make regulations to limit tax increases in the county from 1994 to 2003, and that tax increases in the county would be prohibited for the next five years. Annexation and the loss of 28.6% of our assessment base will have a severe economic impact on the county. We believe it's unreasonable that the minister will make decisions on tax increases for the county, since it is the county and not the ministry which will have to respond to the economic realities of annexation and continue to provide services to the county residents.

I'll go through a few of the activities of the county with relation to this bill.

The county has voiced its concerns regarding annexation since 1988, when the city of London formally applied under the Municipal Boundary Negotiations Act to annex parts of the county to the city. The county made a presentation to the arbitrator, Mr Brant, during the arbitration hearings and later raised its concerns with the Brant report as well as the draft copy of Bill 75. Middlesex has also made its concerns known on Bill 75 to the Minister of Municipal Affairs, Dave Cooke, to Middlesex and London area MPPs and to other government officials since the draft legislation was released in late May. The county also made a presentation to the minister at his hearings in late September in London.

I think it's important to realize that the county has not been sitting idly by, criticizing the current legislation without offering any input on how to make Bill 75 better. As I stated in the beginning, the county is not against

annexation, but we want to ensure that the annexation legislation implemented recognizes and responds to the concerns of the residents of the county.

In June the county prepared a package of proposals which are alternatives to the current legislation. This package addressed the county's concerns with the four components of the legislation I spoke of earlier. Since that time, the county has been promoting its package of proposals as a possible alternative to Bill 75. In late July we met with the Minister of Municipal Affairs to review and discuss the county's alternative proposals. To date, the county has yet to receive any response from the minister on this package, and it does not know whether the province has accepted any of its suggestions or is willing to make any changes. We made several requests to the minister that the county be allowed to review the possible amendments to the bill prior to these committee hearings. However, the minister never responded to our requests.

It is significant that the county's alternative package represents the only package of options on annexation which has been agreed upon by all municipalities within Middlesex county. Bill 75 is an initiative of the provincial government and does not have the support of the county or its municipalities.

Our alternative package: As I just mentioned, the county's alternative proposals address four areas of Bill 75: the establishment of boundary lines and the amount of land to be annexed, adequate compensation for loss of revenue, elimination of the Suburban Roads Commission and the establishment of a buffer zone around the land to be annexed.

I think it's important to realize how stunned the county was when we learned that Bill 75 stipulates the annexation of 64,000 acres. This is an enormous annexation and is substantially more than has ever been requested by the city of London. For example, a 1988 proposal to the then Liberal government stated that it would require an annexation of approximately 23,000 acres. In the city's public presentation to the arbitrator, Mr Brant, in March 1992, London indicated it would require an annexation of 9,900 acres of industrial land to the year 2026. Furthermore, nine days later in a private letter the city changed its request from 9,900 acres of industrial land to 12,000 acres. The 64,000 acres of agricultural, residential and industrial land granted by this legislation is five times greater than what the city said it would need.

We believe that our boundary line proposal is a reasonable compromise that would meet the needs of the city of London and still leave the county with a substantial assessment base. The county's alternative on the establishment of boundary lines allows 23,977 acres to be annexed to the city of London, more than the amount of land that the city requested in 1988. Annexation of this amount of land accommodates the future economic development of the city of London while maintaining the town of Westminster, London township, North Dorchester township, Delaware and West Nissouri as viable municipalities. It is worth noting that the county's proposal on boundary lines allows for the annexation of the London airport in West Nissouri township to the city of London, but excludes the landfill site situated in Westminster.

In an attempt to reach a local solution on this contentious issue of boundaries, Middlesex county has discussed its own boundary alternative with the mayor of London, Tom Gosnell. The city, however, has expressed concerns regarding the omission of the landfill site in Westminster. While the county understands the city's concerns regarding access to and management of the landfill site, we believe it is not necessary to annex it in order to address these concerns. In fact, the boundary line as proposed in Bill 75 could be altered so that the landfill site remains in Westminster, and the city of London and Westminster could reach an agreement on access and perhaps joint management of the site, with the county having access for all municipalities for the life of the landfill site.

We have heard that one of the reasons the city of London wants to annex the landfill site is that it wants to expand the Westminster site and convert it into a regional landfill. Since the city of London has just recently purchased land around the landfill site at four times its market value and the town of Westminster and the county have already agreed informally to the expansion of the site, expanding the landfill site could occur regardless of whether the site was annexed by the city or remained in the town of Westminster. With or without the annexation, the city of London would still have to submit its landfill expansion plans to an environmental assessment process by the province. This process would allow citizens to appear before the environmental assessment board to voice their concerns, and the results of this process could potentially derail any expansion plans for the landfill site.

With regard to the aforementioned 1988 proposal, the county of Middlesex also supports the option of boundary lines suggested in the 1988 city of London proposal. As indicated, the city requested an annexation of approximately 23,000 acres of land. This proposal also included a recommendation of coservicing: a shared-cost-of-services arrangement between the city and the county. This proposal was unanimously accepted by London city council but did not go beyond the proposal stage because the Minister of Municipal Affairs stated at the time that the proposal was not comprehensive enough.

We believe that this 1988 request by the city of London would still provide the city with enough land to expand and is the least costly proposal for the citizens of London since residents would not face large increases in their municipal taxes to cover the cost of a compensation package to the county.

This option has only just recently resurfaced due to concern by citizens of London about the inability of the city of London to pay the necessary compensation to Middlesex county. Recent figures released by the ministry reveal that the city of London would be required to pay the county \$34.5 million in compensation. That's an increase of \$14.5 million over the \$20-million compensation package suggested by the Brant report. The province has not indicated that it will assist London in meeting its financial commitments to the county. Therefore the city of London will be solely responsible for finding a tax source for supplying this compensation, and municipal taxes are the most likely source.

This \$34.5 million is only the compensation; it does not cover any of the associated costs with servicing the extra area: policing, hydro and all of the rest of the servicing items that go with a package like this.

A smaller annexation of 23,000 or 24,000 acres, compared to the 64,000 acres according to Bill 75, will not only allow more municipalities to remain viable and operational but will also remove the burden from the city of London of providing increased compensation to the county, since the city and the county will share the cost of the provision of services.

Since the county has never received a response from the Minister of Municipal Affairs on whether an alteration of the boundary lines of annexation would be acceptable, we do not know if the government is open to suggestions for change. We realize that time is limited, with only two days of standing committee hearings and two days of clause-by-clause, but the county will continue to work to address the issue of boundary lines.

Middlesex County strongly believes that its alternative of annexing 24,000 acres of land represents the better solution for both the city and the county. We urge the minister to meet with the city and the county to review these alternative proposals. There are those who say this proposal comes too late to make any difference to this legislation. However, it is the county's view that it makes far better sense to amend the boundary lines now and implement an annexation agreement that both the county and city can afford. Once the boundary lines are drawn, it's very difficult to change them.

Compensation: Acceptance of the county's proposal on boundary lines would obviously result in a reduced need for compensation from the city to the county. Given the fact that the city of London will have to find additional funding to provide more services to the newly annexed residents of the city, a decrease in compensation to the county would certainly be beneficial to the city, which has yet to determine the impact of annexation on London's municipal taxes. The county's alternative proposal stresses that any compensation from the city to the county must be sufficient to keep the county and the local municipalities viable and enable them to provide the same level of services to their residents that existed prior to annexation.

The county's alternative proposal on compensation also recommends that a compensation process be established so that the province establishes the amount of compensation to be awarded to the municipalities on an individual basis. Neither the county nor the local municipalities favour the system of compensation outlined in Bill 75, whereby the county has a lump sum and it distributes the money.

Middlesex county is concerned that the amendments to the bill presented to the committee this morning did not address the issue of the county having to pay the city compensation for transfers of assets through the annexation. With the county losing 28.7% of its assessment base and the county taxpayers facing a potential increase in taxes of 45%, the county simply cannot afford to pay any compensation to the city of London. Compensation from the county to the city of London is not feasible. Any financial

assistance to the city would come from the province, not from the county.

1640

We are pleased that the ministry indicated in its presentation to the committee this morning that section 48 of the bill will be amended so the enhanced compensation package of \$34.5 million over 10 years will be paid directly to the municipalities.

Suburban roads: The county cannot assume full responsibility for the repair and maintenance of all arterial roads in Middlesex county leading to the city. We believe some form of suburban road funding must be maintained and have suggested to the minister that an agreement be reached for suburban road funding which would allow joint funding between the city and the county for arterial roads. The county has suggested the province adopt the Brant-Brantford model of suburban road funding, where the city of Brantford contributes to the cost of maintaining arterial roads in the county.

The ministry indicated this morning that Bill 75 will be amended so that payments to compensate for Suburban Roads Commission payments will continue in perpetuity, with the payments being based on the local assessment of the city of London. We are concerned, however, that the ministry regulation will allow the minister to adjust the mill rate, and it is entirely possible, then, in the future that the contribution to suburban roads may decrease.

The buffer zone: We believe that the three-kilometre buffer zone around the land to be annexed to the city of London is too large and will not halt development of valuable agricultural land. Official plans will do this if they're in properly. The county has recommended to the ministry that the buffer zone either be eliminated or reduced to 1.5 kilometres.

It is our understanding that the minister has stated there will be no change to the size of the buffer zone. Instead, the official plans of the townships around the buffer zone will be allowed to remain in effect, and any development of land within the buffer zone already designated as industrial will be allowed as long as it does not contravene the official plans of these townships. Any use of the land other than that designated by the township's official plan may be permitted by ministerial order. We believe that this is a more effective use of this land within the buffer zone but we still question why the zone is necessary.

Concluding remarks: I've outlined to you this afternoon the county's concerns with Bill 75 and the alternatives to this legislation which we have proposed to the government and the city of London. The county has tried to maintain an open dialogue with the minister to discuss our concerns with the legislation and review our options, but unfortunately we have received no response to these suggestions. Although the minister has indicated that changes would be made to the legislation, the direction of these possible changes was never shared or discussed with the county.

This annexation legislation will force significant changes to the character and fabric of the county of Middlesex and the city of London. We are concerned that the annexation legislation recognize and respond to the concerns of

the residents of the county and the city. As residents of the county, we must live with the annexation legislation you pass and implement. Annexation legislation must be done right the first time, because as this process has illustrated, boundary lines and compensation packages to municipalities are not easily changed. Middlesex county and its residents must be assured that this legislation, Bill 75, is the best possible agreement for all involved, and this can only be accomplished if the changes are made to the legislation which we have identified in our presentation.

Just a couple of other items that I don't have written on there: One is that if the boundary lines stay where they are, there will be a great impact on the education system in the London area. Increased taxes are almost a sure thing if these lines stay where they are. If you're talking about a 45% increase in your tax dollar, all of you are aware of the tax implications on the education end of your tax bill. You start applying the same percentages to that, and it becomes a real issue.

The other item is strictly a personal item. In section 5 you have made a note in the act to the effect that one person would be appointed to sit as an equal on an elected body, and I think that's a terrible precedent to set. Thank you very much for your time.

The Chair: Thank you. A right-up-to-date brief here. I noticed this morning you got comments, so you must have been pretty busy getting it all put together. Mr Mills has a few comments as the PA to the minister, and then we'll carry on with question and answer after that.

Mr Mills: I'd like to make a few comments, and it may alleviate a lot of unnecessary questions. To answer some of the points you've made, sir, first of all, you say that the settlement of boundaries establishes a dangerous precedent, and I'd like to say that the bill does not constitute a dangerous precedent because the London area presented many unique problems, such as the proportion of population in the city that made a regional government solution unworkable. The minister has clearly promised that this will not be a model for solving the restructuring problems, so I just address that.

I want to go on with the county's concerns with the legislation. The boundary lines were set to allow for good long-term planning for London's growth, to permit a solution to its environmental problems and to prevent a remnant leftover Westminster which isn't financially viable.

In so far as the compensation is concerned, it's been sweetened by amendment to prevent the annexation of related tax increases for five years and by changes to the suburban road compensation. There's \$1 million in perpetuity for roads for London, and this should address roads-related problems and the amount will increase as London's tax base increases.

I'd just like a brief word about the buffer zone. The buffer zone is there to prevent fringe development and to protect farm land. I'm a little bit surprised to hear that you're advocating a form of development which is not in the long-term interest of the county and which will unnecessarily disrupt agriculture and remove land from production. Instead, the county should follow good planning

policies and practices which will strengthen its financial base for the long term by developing in and around its existing centres.

You spoke of the alternate package. It has not had the support of any major group except county council, and due to the lack of support it doesn't seem possible. It isn't a comprehensive long-term solution to many of the existing issues. It seems problematical in some aspects such as joint service areas and necessitating joint planning.

I've got another one, the economic impact, with the tax impact in the first five years and phasing over the second five years to allow the county time to adjust and restructure. We've spoken about the suburban roads, and those are my comments, Mr Chairman.

The Chair: Okay. Thank you.

Mr Gare: Do I get to reply?

The Chair: You get to reply to them. Go ahead, Mr Gare.

Mr Gare: As far as it setting a precedent is concerned, I think it does set a precedent. You're allowing a city to try and administer over agricultural land, and London by its own admission is having trouble coming up with some way to do that. If you go to the Kitchener area, you will find it's having trouble looking after agricultural land, and it is a precedent that Windsor doesn't want to see, Kingston doesn't want to see, Stratford doesn't want to see, and any number of other places.

You mentioned that the major group hasn't supported it. I don't know what you would think Middlesex county is if it's not a major group. We're one of the foremost players in this. I live 35 miles from London out in Adelaide township. This is going to affect me. If this goes through, it's going to affect my tax dollars, and it's going to affect my pocketbook and my kids as long as I live on that property if I happen to hand it to them.

As far as planning is concerned, I really have my doubts that people are looking at this in the right and proper manner. To change a boundary does not change how you service people. You must have coservices to do this properly. If you keep drawing a line and extending this thing out, then you're only servicing the people in that area.

You must have the coservices and you must have it working back and forth so that everybody gets serviced, not just the people in London. I want the people in North Dorchester to be serviced too, and Delaware, and ultimately Adelaide township. You can't do that as long as you keep saying, "We're going to set the boundaries here and that's as far as you can go." If you can't get London to go coservices, then I think legislation should be put in to force it because the services, the water, sewage and waste disposal, are of utmost importance to the people, and that's what you have to remember.

Mr Grandmaitre: Is there time—

The Chair: We're going to have to split it up there. I'm going to start off with the third party. We're looking at about three or four minutes apiece.

Mr Bill Murdoch (Grey): Is that all we're going to get?

The Chair: We're about an hour and a half behind.

1650

Mr Murdoch: I certainly appreciate having you people here today to talk about probably one of the most undemocratic processes we've seen in the history of Ontario. We're upset about this and there doesn't seem to be anybody wanting to listen to you people and that's really unfortunate.

You mentioned that there were no other key players. I don't know what happened to the Middlesex Federation of Agriculture. I would call them a very key player and I was wondering—I'd like to ask you, Gord—are you going to set up a new London Federation of Agriculture? Is the government going to pay for that?

Mr Mills: They do everything.

Mr Murdoch: I'll ask you that question, Gord.

The Chair: The question isn't—

Mr Murdoch: All right. If you don't want, then maybe it's a good idea—

The Chair: We can discuss this out in the hall afterwards.

Mr Murdoch: Well, I don't like discussing—that's the problem. What do you think about that? Do you see now we'll need a London Federation of Agriculture? Is that what's going to happen?

Mr Gare: Well, there has to be some sort of committee set up, whether it's a federation of agriculture—they would certainly be involved in an effort to take their concerns to the city of London council. It's an entirely different process.

Mr Murdoch: You've been around for quite a while as a municipal politician. Have you ever seen anything like this where they just, on high, come down and say this is what you're going to do? You were prepared to talk about other ideas, am I not—

Mr Gare: Oh, sure. We have an alternative proposal.

Mr Murdoch: You have an alternative proposal?

Mr Gare: Yes.

Mr Murdoch: This government will not listen to that proposal, as we've just heard, I guess. How are you reacting with London now? We went through an annexation process in our area, but the government of the time forced us to talk and we did. I was reeve of the township of Sydenham and we had to deal with the city of Owen Sound and we sat down. It took two years to hammer out a deal, but we did get the deal and that was a democratic process because when we came out of there both of us were happy.

Do you see how you're going to be able to get along with London after this, because it's being forced upon you? I know it's not London's fault either, but the people who are going to be annexed that do not want to be annexed right now—I'm talking a lot about the rural area—they will never become Londonites, will they, in your eyes?

Mr Gare: You will always retain your identity no matter where you go, yes.

Mr Murdoch: But do you think there will always be this feeling of bitterness that this was forced upon you?

Mr Gare: That's always a possibility. The process that was taken does encourage some of that, yes.

Mr Murdoch: This is what I've been getting at. Maybe the government can listen. It will never work when you force people to do things like this in a democratic country. It doesn't work very well in socialist countries, but you're trying to force it on people in a democratic country and I think—

Mr Sutherland: Is that like regional government?

Mr Murdoch: It's maybe—we can't talk, it's—

Mr Winninger: Maybe you would have found a local solution.

Mr Eddy: Oxford county was not forced.

The Chair: Order. Mr Murdoch has the floor and he's waiting for an answer.

Mr Murdoch: One of the members across the floor said maybe I have the solution. Well, there is a solution: You sit down. Middlesex has come back with a counteroffer; London can come back with a counteroffer. That's how things work out. If you have a government dedicated to working with democracy, then you can work things out. You sit down then.

You have the stick now because you've almost forced them into it with this bill. It hasn't passed yet, thank God, and maybe it won't get passed, but you have the stick there that you can do it. You can tell people in Middlesex they've got to sit down, and you can tell London it's got to sit down, but you just can't set up somebody to come in and say, "Hey, this is what you're going to do; tough it." It won't work in a democracy and there's going to be people upset. They have rights and you're taking their rights away from them.

The Chair: I have to cut you off there, Mr Murdoch.

Mrs Mathysen: Just a couple of quick questions: One of the problems this annexation seeks to address is planning and environmental problems in Westminster. Also, it's been designed to compel the city of London to do extensive planning around environmental development. Is the county of Middlesex prepared to develop an equally rigorous official plan for the county, one that would be comparable to that of the city of London?

Secondly, I know the whole issue of restructuring in Middlesex has been a contentious one for years. I know you have a restructuring committee. I would like to know at what point that restructuring committee is in terms of its recommendations, and is that restructuring something we could look forward to in terms of addressing some of the very difficult problems Middlesex is facing and has faced?

Mr Gare: I might say that in July—was it July we went to Centralia?—we were away to what we called a visioning session. A lot of these problems were brought up on the table and discussed. From that visioning session, the county review committee received the first proposals last night for strategic plans which in fact would go to setting up the county with a plan for the future with regard to

whether these are the right things for the county. I'm sure the strategic plan would go down those roads.

Mrs Mathysen: Do coservicing agreements work?

Mr Gare: You bet they do.

Mrs Mathysen: Can they work in this case?

Mr Gare: Absolutely. The lines are there. It's a user-pay thing, always has been. That's how you recover your money. As I say, you draw a line and then you exclude the people outside the line, and I think that's wrong. I think you cross the line with your service. Your waste disposal, your landfill sites and so on are going to be in a larger area. You can't have one in every municipality. Right there you've got coservices going on. You've got municipalities working together. The same thing can happen to your sewage treatment plants, your water systems and everything else.

Mr Will Ferguson (Kitchener): Can you tell me what the 1992 annual operating budget of the county would be?

Mr Gare: It's \$23 million.

The Chair: Okay, Mr Eddy, you're on now.

Mr Eddy: I came down here as an elected member to represent the constituents of my riding. I hope to do that and try to do a good job to the best of my ability. Here I find I'm involved in an affair, a situation, a procedure, that is the most unfair situation I've ever experienced in my entire municipal life, starting on November 1, 1955, and that's it.

Warden Gare, I'd like to take this opportunity to thank you for appearing and to compliment you and your council on taking the time to make us aware of the fact of your deliberations in response to the city of London's annexation proposals and applications. There were originally four municipalities. Subsequently, two were withdrawn and it ended up with two municipalities, London township to the north and the town of Westminster to the south. I want to thank you for your response, recognizing that the city needs to grow. Indeed you want to grow and you recognize that and the local municipalities there do as well.

I also want to recognize your council for being at the forefront of county governments in any way: being the first county in Ontario to establish a library cooperative; the first county to establish a county library; the first county to establish a county official plan, indeed establish an official plan before there was legislation by the Ministry of Municipal Affairs to allow counties to become designated as municipalities; the first county to establish a county-wide fire-alerting system through the cooperation of the good neighbour, the city of London, servicing some 22 or 23 fire departments, one in a first nation and one in another county. Exceptional. You have done very well and I thank you for coming.

I have some questions. The first question is, are you aware and have you been aware of a series of amendments to the bill that have been proposed by the government?

Mr Gare: Are you referring to the ones presented this morning?

Mr Eddy: Yes.

Mr Gare: Yes.

Mr Eddy: Does your presentation reflect any of those amendments in any way or was this prepared prior to them?

Mr Gare: This has been prepared since.

Mr Eddy: So it does take those into consideration?

Mr Gare: It takes them into consideration, but our primary presentation is still in there in its entirety.

Mr Eddy: Does that include the new compensation package, the figures and that sort of thing?

Mr Gare: Yes.

Mr Eddy: Okay, that's fine. I just wanted to be clear on that.

Another question I have is that on page 2, I'm very distressed to find that the two local municipalities in the county of Middlesex that will be left are now seriously discussing amalgamation with adjoining municipalities in another county, further injuring and disembowelling, as I say, the county of Middlesex. I would understand that's a different process and there'd be an application to the OMB, an amalgamation which could probably go through unless the honourable Minister of Municipal Affairs would want to interfere with that process. Are you aware that is a possibility and can happen?

1700

Mr Gare: I might correct you that there was just West Nissouri. The other was on a rumour basis and I've been assured by the reeve—

Mr Eddy: And North Dorchester's withdrawn from—thank you very much. I'm relieved at that.

The Chair: As the clock has run out—

Mr Gare: She's informed me that this is not up.

The Chair: I'm sorry we had a few interruptions there. I'd like to thank you for appearing before this committee.

Mr Gare: Can I—just one little thing? In the changes, the amendments to the bill this morning, in the list that was given to us as a summary, it mentions these suburban roads and it says the subsequent payments will be made by the city to the county on the same basis in perpetuity, but when you look at the actual sheet here, it does not say "in perpetuity."

Mr Eddy: A slight slip of the hand.

The Chair: Okay, fine; we've got that recorded in Hansard.

Mr Gare: I'd like that noted and cleared up, because it's in here that "such other mill rate as the Minister of Municipal Affairs may subscribe." We might have it for a day and then we lose it.

Mr Grandmaitre: That's why Gord had a terrible time pronouncing that.

The Chair: Fine, thanks a lot.

Mr Gare: Thank you very much, Mr Hansen and the committee.

Mr Eddy: I apologize to you on behalf of the committee for the little time you've had. I also resent the little time I've had to ask questions; I had a great many more

Mr Winninger: He went overtime this morning.

Mr Sutherland: You should know that it was his members who caused the vote in the House.

Mr Gare: I appreciate the opportunity to come before you.

MICHAEL TROUGHTON

The Chair: The next presenter is Mr Michael Troughton, professor, department of geography, University of Western Ontario. Sir, you have half an hour. In that half-hour, try to save some time at the end, because Mr Eddy here is just anxious to ask questions all day.

Mr Sutherland: Mr Chair, can I correct that? We have two other presentations besides Mr Troughton's, so I think we should be saying about 20 minutes each rather than a half-hour.

The Chair: Okay. We'll see the presentation, and try to get as many questions in at the end, not statements. Go ahead, sir.

Dr Michael Troughton: I appear before the committee this afternoon at the request of members of the committee asking me to come here and make some comments on the annexation, particularly in relation to these hearings on Bill 75. I haven't done this kind of operation before, so I prepared some notes for myself and then found out this morning there are 25 copies needed of my presentation. That's what you have in front of you. I do apologize for their rather rough form, the notes to myself for this presentation. I didn't realize they would be treated so formally.

What I tried to do on these notes was to indicate, first of all, that I have an ongoing involvement, both from an academic and a non-academic point of view, with respect to this process. I've been in a position to study the annexation and the urban-rural interactions in the London area since the late 1960s. I've followed this process fairly closely in a number of ways, investigated aspects of related urban-rural interaction, made presentations at various times. I suspect the reason I was asked to speak here today is because of that ongoing involvement in commenting, at least, on the process.

If I can turn to the section that I label "Overall Opinion," I'd like to contrast the fact that I recognize the need and the rationale for the 1961 annexation by the city of London, because at that time the city was grossly under-bounded and had sprawled well outside its administrative boundaries. There was no doubt, at least in retrospect, that an annexation was justified; whether a specific size or not I won't go into, but there was certainly a need for annexation at that time.

However, I can find no similar situation and therefore no justification for the current annexation. I came to that conclusion back in 1981 and I've retained that conclusion ever since, through the various proposals made by the city up to the present and through the recent arbitration hearings.

I'm prepared to accept that a small annexation of lands immediately adjacent to the city may facilitate some rationalization of service provision and provide a cushion of land for both industrial and residential development. But from my viewpoint, there exists no justification under any rubric, be it planning, development, need etc, for the major annexation that's set forth in this bill.

As a general comment also, before I look at some specific items, may I add that I personally believe that the arbitration process came to be a flawed one. I sat through most of the hearings. I heard many of the people who made presentations. In my opinion, the recommendations of the arbitrator, as reflected in Bill 75, in no way reflect the majority opinion which was sought during those hearings. So there is to me a tremendous discrepancy between the stated purpose of the arbitration hearings, to get public opinion and input, and the results that came out at the end.

I have two what I regard as major objections to the proposal. My first one is that London, to my mind, has never demonstrated the need for more land beyond the most modest levels. I base this on the fact that, reviewing the situation that has developed in the city since 1961, even at the present density levels within the city, they're well below those of 1960; in fact, hardly more than half those of 1960. Even if we projected the suggested population of the city for the year 2026, which is the period that was looked at in the proposals, the density in the city based on London's own population projections would still only be about two thirds the level it was back in 1960. To go beyond that and provide the city with this tremendous amount of additional land to create a place that, as has been said, is approaching the size of Metropolitan Toronto, with 10 times its population, even at a population of 400,000 by the year 2026 it would result in densities—in the note it says less than 19, but it should be less than 10 per hectare, or less than 30% of the 1960 density.

This will result—and I base this on a professional opinion—in a huge, inevitably low-density urban place that I find to be in direct contradiction to the current recommendations that are coming out of the Sewell commission on planning that is currently at the stage of making its recommendations. They have plumped very solidly for higher urban densities in this province. This proposed annexation goes absolutely in the opposite direction, as far as I can judge.

I think it will result in widespread urban sprawl. As has been mentioned earlier, I think it will be extremely costly in terms of servicing a huge peripheral zone in terms of public transport, infrastructure, services and so forth. Obviously, some of these additional costs are already being uncovered.

In addition, it will divert funds away from redevelopment of the present city of London, including its already severely impacted core, which several studies have pointed out, and the need for service and infrastructure repair and replacement, which is a common need among municipalities not only in Canada but right across North America. It will saddle an urban municipality and a planning department with rural and agricultural responsibilities for which it has neither competence nor desire, in my opinion. I've had relations with the planning department in the city of

London over the years, and I base that opinion on discussion with planners in the city.

My second and equally serious criticism involves the loss of a large nationally and provincially significant area of prime agricultural land. The key classification of the Canada Land Inventory—you have this on the table—places over 95% of all land to be annexed in classes 1 to 3 capability for agriculture, and, within 10 miles of the city of London, 65% in class 1.

This land is well recognized—one could produce voluminous literature to support the fact that this is a scarce national resource, and it's irreplaceable. Both federal and particularly provincial governments, including the present one, have called for its protection and its transfer to non-farm use only through thorough justification. I think that loss is a critical one, not only locally, not only provincially but, I would suggest, on a national scale.

1710

I'll just note a couple of other criticisms. The gain for the city will be outweighed, I believe, by losses for the county. One that hasn't actually been mentioned, I think, is the very fact of not only territory but the geographic integrity of the county. The way that it will be shaped, literally, after the annexation, if it goes through in its present form, will create an unwieldy geographic area. Of course, the losses of population and revenue have been treated very well by Warden Gare.

In my estimation, the county was doing a credible job of both stewardship of its agricultural lands and the provision of education, government and services etc to its area and population. This has been challenged and potentially reduced in favour of a more expensive and inappropriate jurisdiction.

I might add, with respect to planning, that it was my impression that planning was somewhat on its way towards meaningful discussions between the city and the county. It seems to me that not only have these been swept aside by imposed annexation, but I think they will inevitably sour city-county, rural-urban relationships for years to come. There is some evidence that the 1961 annexation left a bad taste in many people's mouths for a considerable period after it. I suggest that this annexation would leave an even worse taste in most county mouths for an equally long period of time.

Conclusions: It's my opinion that the proposed annexation is unjustified in terms of the needs of the city, which have never been sufficient to require more than a modest increase to its present area, even over a 30- to 50-year period.

Secondly, the impact on the rural area, and particularly the loss of a huge area of prime farm land, far outweighs any benefits in planning, administrative or other terms. In a general sense, in an era of conservation and sustainable development, if these are to be anything more than terms, if they are to mean anything, the proposed annexation goes right against them. It's a throwback and is completely inappropriate to the goals of a conservator society.

Finally, the annexation, especially the proposed transfer of prime farm land to an urban jurisdiction, is antithetical to the stated policies for agriculture and rural planning

in Ontario as they have been developed by successive governments in the province, be they Conservative, Liberal or the current NDP. Thank you very much.

The Chair: Thank you. We'll start off with Mrs Mathysen.

Mrs Mathysen: Actually, Mr Chair, I think it would be fair to give some of my colleagues a chance; they haven't had an opportunity.

The Chair: Anybody on the government side have a question?

Mr Grandmaître: Professor, are you familiar with the 1988 proposal?

Dr Troughton: The one that's being suggested as an alternative at this time?

Mr Grandmaître: Yes.

Dr Troughton: Yes. I have documentation, as far as it was available, on each of the alternatives that have been suggested on the way. Yes, I've seen that.

Mr Grandmaître: Would you say this was more representative of the needs of the city of London?

Dr Troughton: Yes, I think it's more than reasonable in relation to the city's needs.

Mr Grandmaître: More than reasonable?

Dr Troughton: Yes. To me, they haven't necessarily proved the requirement for the area that is suggested by that 1988 proposal, so I would say it would be generous.

Mr Grandmaître: If you're familiar with the 1988 and the 1992 proposals, would you call this a land grab?

Dr Troughton: That's the appearance it gives. It's been defended as having some logic; I find the logic flawed. There may have been good faith in the suggestion that London should have the opportunity to develop, but I think it goes far too far and is unjustified and will be costly to the city and to the rural area.

Mr Grandmaître: I think it's only reasonable, as I mentioned this morning, that the city of London needed more room to expand; it needed more commercial and industrial land. My question this morning was, why 64,000 acres, and 95% of the 64,000 acres can be—5% can be developed, and yet the rest is all—

Dr Troughton: There was a reason, of course. I think the reason was the tactical mistake on the part of Westminster in creating itself into a town, which got itself into the situation of being analogous to Clearwater on the edge of Sarnia. This looked like a reasonable solution, but in fact it was anything but a reasonable solution. I think there was a political undersituation there that obscured the real facts of what this would do to the area from the point of view of both the city and the county.

Mr Grandmaître: Would you say that—

The Chair: I'm going to have to cut off because of the time. Mr Murdoch, do you have a question? I've got one from Irene over there, but go ahead.

Mr Murdoch: Okay. Thank you for coming. I appreciate this. I think you explained that you do see the need for London to expand; you're in agreement with that.

Dr Troughton: I can see that it might be appropriate to take in some extra area for certain key purposes here.

Mr Murdoch: But you don't see the need for the amount of land that's mentioned here in Bill 75.

Dr Troughton: No.

Mr Murdoch: Quickly, what do you suggest we do from here, then? What would your suggestion be to the present-day government and to this committee as to what we should do right here where we are? What should we do?

Mr Grandmaître: Call an election.

Dr Troughton: I think in many ways to take a step back would be a good idea. The question would be whether you go back to square one or whether you take a suggestion that had already been looked at. I suspect that probably the best way to go would be to look most closely at this 1988 suggestion because it is acceptable to the county, and in that sense it would more reflect the arbitration process, where there was a consensus, I think, by people speaking both from the county and from other areas, that a modest agreed-upon annexation would be acceptable. It would reflect that kind of thing.

Mr Murdoch: I think it's called democracy.

Mrs Mathysen: Just very quickly, Professor Troughton, one of the concerns that I've heard over and over again is that, historically, urban centres are not able to safeguard agricultural land and the farmers as they go about their business. Bill 75 proposes stringent regulations to protect agricultural land, and I am wondering, since you are a geographer, will these be effective? Are the fears that I've heard voiced legitimate fears?

Dr Troughton: I think they're legitimate fears because of things that have happened in other areas. I would suggest that the regional government situation, for example in Niagara, has been absolutely chaotic as far as preserving prime agricultural land is concerned. In a general sense, urban municipalities' urban planning departments have other priorities, and agricultural land always tends to be looked at in a lesser priority. In fact, in some cases it may only be seen as land waiting for development. With those sorts of entrenched attitudes and the sort of residual status of agricultural land, I think there is always a tremendous threat that it will not be safeguarded or treated in any reasonable manner.

Mr Mills: A couple of quick points in so far as my colleague's query about perpetuity is concerned. Amendment 22 says, "The city of London shall on or before the first day of March in each year...." That, to me, is perpetuity.

Professor, I'd just like to comment that the annexation is consistent with the Sewell proposals, and the solution of producing government over the area is not the same as creating one large urbanized area. Agriculture and open space will be preserved within the London boundaries by strict regulation and requirements through the official planning process, and similar development in Westminster would require more land because it is unlikely to be on services.

1720

Mr Eddy: On a point of information, Mr Chair: The city of Sarnia/town of Clearwater situation was alluded to,

and I just wanted to point out the vast difference between this and that. In the case of the town of Clearwater being amalgamated with the city of Sarnia, the city of Sarnia was then brought into the Lambton county government. It became an integral part of it. There was no loss of assessment to the county ratepayers, nor to the county boards of education overall. It's quite a different situation.

Mr Sutherland: That couldn't be done here.

The Chair: Mr Troughton, did you want to reply to the PA's comment there?

Dr Troughton: Only to say that he and I would have to differ on the interpretation of the Sewell report, because I honestly think he's dead wrong in his interpretation.

The Chair: I'd like to thank you for appearing before the committee and for your comments.

GRANT HOPCROFT

The Chair: Could we have Mr Grant Hopcroft. Why we're trying to keep the tight time frame is that we have a vote coming up in the House at just about 6 o'clock. If we don't keep pushing on, we're going to wind up that we're going to miss one of the witnesses.

Mr Ferguson: Given Mr Hopcroft's vast experience in this field, perhaps he can give us the short version.

The Chair: Go ahead, Mr Hopcroft.

Mr Grant Hopcroft: I think Mr Ferguson knows me well enough to know I don't have a short version of anything, but I will do my best to keep my remarks brief. In fact, I had already tried to do that to leave lots of time for questions.

My name is Grant Hopcroft. I'm a member of the board of control of the city of London, and as well, I'm a member of the city's boundary negotiations committee. Following the announcement of the Brant report and the introduction of Bill 75, I've also been appointed chairman of the city's task force on local government restructuring, which is actively reviewing and has already made several recommendations to city council on restructuring of our council standing committees, advisory committees, and we will, in the new year, be making recommendations regarding ward boundaries and council structures as well.

Yesterday our task force introduced a number of motions to our board of control. The board of control's report, which will be going to city council on Monday, is attached as an appendix to my paper.

We will be giving further consideration to membership and terms of reference on committees dealing with important new agricultural and rural issues and also a restructuring of our advisory committees on environmental issues, as well as a standing committee of council created to deal with official plan and social planning matters in the new year. These will be the subject of further broad public consultation; we have already held two public participation meetings prior to finalizing that structure.

Let me say very clearly here today—and my presentation today is a personal one—that I am in favour of the basic thrust of Bill 75. London city council has pressed for well over a decade and presented a number of scenarios to interested municipalities on our boundaries and authorities

from time to time. There was a time for discussion, there was a time for negotiation and there was a time for a local solution, but for a number of reasons a local, made-in-Middlesex solution was not possible. I'm also aware that there was yet another 11th-hour proposal brought forward in London last night.

I would urge this legislative committee to not seriously consider this last-minute alternative put forward by an ad hoc group of local politicians without the full authority of their respective councils. This proposal was on the table several years ago and was rejected at that time because it did not meet a number of key objectives, and now we are mere days away from the January 1 deadline set out in Bill 75. This last-minute effort is tantamount to Mission Control in Houston, at T minus three and counting, asking the astronauts on board to plot a complete change of course prior to taking off.

I recognize that Bill 75 has received province-wide attention amid concerns that it may represent a model for resolving boundary negotiations throughout the province. Minister Cooke has said, and it was confirmed by the parliamentary assistant, Mr Mills, today—and I believe this position—that the London model is not the model for the rest of Ontario. London and Middlesex county are unique in many ways, as Mr Eddy is well aware. The vast divergence in population is the key. Over 300,000 people call London home, while the county of Middlesex has approximately 65,000 residents. Those numbers speak volumes. I won't go into that in any more detail.

There is one deficiency in the process, as I see it—and another as I read through the amendments, which I'll get into—and it's with respect to the issue of compensation to the city of London for transition costs, which ought not to be borne by London taxpayers. Fairness in taxation is an important consideration, from my perspective. Currently, for example, the town of Westminster does not pay for OPP policing, even after attaining town status several years ago. These policing costs are approximately \$700,000 annually, and the standard of service provided is much lower than that in the city of London. A 45-minute response time is not unusual.

The costs to upgrade and expand our police capabilities are particularly onerous to existing city of London taxpayers when you consider both the operating and capital costs, especially in view of the proposed tax freeze for residents of the town of Westminster, the town which froze its taxes last year and dug into its reserve funds, to make the city look even worse.

Similar types of consideration also need to be brought to bear with respect to fire services and other servicing considerations, which have been the subject of extensive consultations between ministry officials and local officials through the boundary transition process.

I'm particularly concerned, and this isn't part of my text, with respect to the proposed amendment reintroducing the suburban roads levy or an equivalent of it. I feel this was a very important part of the overall package the arbitrator put forward, particularly in light of the way that mill has been used in the past. I guess I'm gratified in part to see that there's going to be some flexibility in the application

of that mill rate, because more often than not in the past it hasn't been based on any needs for suburban roads. It's been based more on how much money the mill of equalized assessment would bear.

But I point out, and this is borne out by the documents of the ministry's transitional technical coordinating committee, that there are some 46 kilometres of suburban roads that will be coming within the new city boundaries which will no longer be a suburban roads commission responsibility. Those will be a responsibility of the new city of London. In fairness, I think that needs to be considered.

Getting to one of the key points in my presentation, the legislation is really about fostering better planning and greater opportunities for economic growth in the London area. Many citizens in the areas earmarked for annexation have in fact expressed an attitude of, "Let's get on with the business at hand." In the city of London, the vast majority of elected municipal leaders are supportive of this process, are supportive of the Brant report and, with a couple of exceptions, that have been part of meetings with the county, there is support for this bill.

To the individuals who are concerned about farm land, I point out that the town of Westminster is already an urban municipality. Out of nine council members, I believe there are two, possibly three, involved in the active business of farming or agriculturally related businesses. It is the town of Westminster; it had already taken a decision to urbanize.

I think there are a number of red herrings that have been placed before the public and the members of the Legislature on the issues of protection of farm land. I take exception to some of the comments that have been made that the city is incapable of dealing with those concerns. We recognize they are very real concerns, and in fact we're not dealing with the needs of the city of London; we are dealing with the needs of the area, the need for planning and the need for coordination of services.

In fact, I think Mr Troughton's presentation in particular, in support of the 1961 annexation, seems to speak of a process of waiting until the situation is completely out of hand and the costs of retrofitting services are completely exorbitant before one takes action. I commend the government for trying to take the issue in hand and bring about some restructuring before those problems occur, so that in fact proper standards can be put in place, proper planning can take place and proper services put in place for development and growth, which are necessary to the economic well-being of our region and this province.

I'd like to cite one figure as an example of how expensive planning can be. Our 1988 report, which has been referred to, pointed out the lack of capacity to deal with some of those problems. We've estimated \$2.8 million to deal just with some of the planning issues in terms of servicing studies as part of our official plan and servicing reviews, so we're not talking peanuts here.

To conclude, I think the city of London has shown a degree of excellence in terms of the planning that has taken place since the last annexation. I think the densities of the areas that have developed after annexation of those 1961 lands into the city, I think, reflect densities that are

appropriate, given an urban context. Now is not the time for more piecemeal planning and short-term solutions such as the 1988 deal was. We have the components in place. Bill 75 can make them a reality that will benefit the entire region.

Thank you for the opportunity to appear today.

There is an appendix dealing with conservation authority matters, which I won't go into at this point. It is attached to my report, and I would just urge the committee to take those considerations into account, by way of regulation or otherwise. There are certain unfairnesses that will occur as a result of the legislation if further amendments aren't brought to bear.

The Chair: Thank you. We'll start off with the official opposition.

1730

Mr Eddy: Thank you, Controller Hopcroft, for appearing before the committee to give us the advantage of your insight, your experience and your knowledge. It's very helpful.

I know you would want to be fair and would admit, I hope, that the reason for the quick response of the OPP within the town of Westminster is simply because the OPP detachment is stationed very close to the town of Westminster, with Highways 401 and 402 right there. That does help substantially, I suspect.

I thank you for the conservation matters. I will look with interest and read those. I'd like to look at them.

The dictate of the government is to transfer 64,000 acres, the entire town of Westminster and some other municipalities adjoining the city of London. I believe 7% of that, some 4,000—why does the city want 57,000 acres of permanently zoned class 1 to 3 agricultural land? Why would they want that if it can't be developed? The city of London needs and wants, I think, land for development.

Mr Grandmaitre: It can't be developed for now.

Mr Hopcroft: I think the key answer to your question, Mr Eddy, is that we need to do proper planning. Many of the annexations in the past have been piecemeal; they've had to be planned in a piecemeal way. Putting a larger tract of land within the city's planning boundaries does allow proper wide-ranging and broad-based servicing and planning studies to be done.

Mr Eddy: It's a matter of planning for services.

Mr Hopcroft: It's a matter of planning for services. It's a matter of planning for growth. It's a matter of allocating where development will take place. For the first time, with this amount of land coming with the city boundaries, I think the city is really, truly going to have to deal with agricultural and rural concerns in a permanent way rather than treating it as land that's just there to be gobbled up until the next annexation.

I see a benefit from that, because the city will have to recognize in a very permanent way, in a real way, that there are going to be lands within the city of London that, for our lifetimes and probably the lifetimes of our children, are going to remain in active agricultural production.

Mr Eddy: Please don't—

The Chair: I've got to cut you off; I'm sorry. Mr Murdoch.

Mr Murdoch: I'll continue on, then. I mean, you talk with a forked tongue; there's no doubt. You're saying in one way you're going to service all this area, yet you're not going to use agricultural land. Give us a break. Are you going to use the agricultural land for agriculture or are you going to service it for development? Which are you going to do?

Mr Hopcroft: Mr Murdoch, you've known me long enough to know that I don't speak with a forked tongue—

Mr Murdoch: You just did to Mr Eddy, and I am questioning that.

Mr Hopcroft: —or whatever euphemism you want to put on it. I am suggesting to you that we recognize that there are lands that will come within the city under Bill 75 that will remain agricultural in perpetuity. They will be designated as such.

Mr Murdoch: Until they're serviced.

Mr Hopcroft: They will not be serviced. They will remain agricultural. But it does allow us to properly plan without having the constraints of a boundary that may be half a concession or one concession.

Right now we have services—we have pipes that go right to the edge of the city; we have streets that end at the edge of the city—in anticipation that the city will grow beyond those boundaries. I'm suggesting that that sort of piecemeal planning, based on ifs, ands and buts of whether that land will be annexed in the future, won't be part of the equation any longer.

Mr Murdoch: You've basically said the people who had the land before couldn't plan and you have to annex it to plan it. That's what you're saying.

Mr Hopcroft: I'm not suggesting that the people who were there couldn't plan. I'm suggesting that there were financial constraints in terms of their ability to properly service. The inability to properly service meant there was a wastage of land because of lack of urban services. You know as well as I that to properly provide for services and growth without sewers, without water, gobbles up land at an incredibly inefficient rate.

Mr Murdoch: One quick one before he goes: There's going to be a compensation package from London to Middlesex. Is London prepared to pay the full cost and the Ontario taxpayers won't have to pay any of that? Are you guaranteeing us that, as a controller?

Mr Hopcroft: I am suggesting to you, and I made it part of my presentation, that in fairness to London taxpayers, there should be compensation to London taxpayers for some aspects of the annexation.

Mr Murdoch: From whom?

Mr Hopcroft: From the province of Ontario.

Mr Murdoch: That means everybody's going to pay for London, then? Is that what you're saying?

Mr Hopcroft: Well—

Mr Murdoch: Okay, that's fine. I just want that on the record.

Mr Hopcroft: The province, in view of the commitment it has made to the residents of the county in terms of the tax impact they will suffer, particularly when you consider that there's been free policing in Westminster that shouldn't have been free for at least the last three or four years, that an element of fairness to London taxpayers should require some transitional assistance. We're not looking for permanent assistance; we are looking for transitional assistance to carry us through the difficult period of growth that we're going to be dealing with.

Mr Winninger: It's always a treat to go last, Mr Chair, because all the good questions have already been asked. I do have a couple, however. Certainly, as chair of the task force on restructuring and as a member of the board of control and a member of the boundary negotiation committee, even though you don't speak for the city of London, your views and opinions carry a considerable degree of weight.

I'm wondering, first of all, what safeguards the city envisages to prevent the widespread urban sprawl that Professor Troughton referred to. I'm wondering, secondly, whether you disagree with Warden Gare's position that coservicing agreements would have been appropriate in this instance.

Mr Hopcroft: To answer the last question first, I think the warden's suggestion and concept of coservicing simply is not workable in many ways, particularly given some of the new planning and environmental constraints we all know we're going to be facing as a result of the deliberations of the Sewell commission and many of the other reviews going on. That is not to suggest we, as a city, are not prepared to cooperate with the county. The landfill site, I think, is an obvious example where we can and will work out a local solution in terms of access to the landfill site, but to suggest that city taxpayers should be paying for extension of services or capacity that would be used to the benefit of taxpayers outside the city, to me, there's an element of a lack of fairness there.

On the first question you asked, which is with respect to the city's intentions with respect to protection of those agricultural concerns and our committee structures, if I recall the question correctly—

Mr Winninger: It addressed urban sprawl.

Mr Hopcroft: Urban sprawl? We will be dealing with that through our official plan review. The minister, in the act, has set forth almost extraordinary powers in terms of an ability to direct that if he feels we're getting off the rails. We feel that, given the servicing issues that are going to have to be dealt with, the planning issues that are going to have to be dealt with and the structures we're going to put in place in terms of our new environmental advisory committees, a technical advisory committee on natural areas, where we're looking at creating inventories of environmentally sensitive areas, that we are going to ensure that the horse doesn't get out of the barn too early, that in fact it doesn't get out at all, by properly identifying areas that need to be protected, by properly identifying prime farm land for protection and directing growth away from it to the extent possible.

Clearly we recognize, and I think municipalities across this province recognize, that growth at the type of low densities that has been apparent across the province in the past is not going to continue; it's simply too expensive. I suggest to you that the city recognizes that. We have infilling policies within our official planning now that provide for intensification in already developed areas. You're not going to see just reckless, galloping growth and sprawl over good agricultural lands. We recognize a responsibility there, and that's not going to happen.

We intend to have an advisory committee or some form of committee on agriculture. We haven't determined yet whether it will be an advisory committee or a standing committee of council, but we are committed to a process of consultation over at least the next month to ensure we get input and properly consult with the agricultural interests. I'd like to thank Irene Mathyssen for chairing a meeting about a week and a half ago between representatives of the federation, the city, the county and the town of Westminster in an effort to try to resolve some of those concerns. While I would be premature in suggesting there is consensus now, I'm confident that some form of consensus can be reached to ensure that there's meaningful input on those issues.

Mr Mills: Thank you very much, Mr Hopcroft. I heard your concerns about compensation. I can tell you that negotiations are continuing on compensation issues and a solution is being sought that will minimize the impact on the taxpayers. That's assured.

Mr Hopcroft: Thank you very much. I'm very pleased to hear that.

The Chair: Thank you for appearing before the committee.

1740

LONDON CHAMBER OF COMMERCE

The Chair: Would Mr Ed Holder of the London Chamber of Commerce come forward, please; the other gentleman is Mr Frank Berry, I take it. We have 20 minutes all together, until 6 o'clock, unless the bell rings. Sir, you might as well start because of the time factor.

Mr Edwin A. Holder: The London Chamber of Commerce appreciates the opportunity to make its views known to the committee. We're certainly pleased to do that tonight.

If I may tell you, the position of the London Chamber of Commerce is very clear. We support the passage of Bill 75 to take effect January 1, 1993.

The London Chamber of Commerce, along with other interested parties, has had several opportunities to participate in hearings convened to discuss the aspects and implications of annexation in the greater London area.

In July 1991, the London Chamber of Commerce provided to Mr John Brant, arbitrator, a position paper outlining the principles necessary in reaching a final boundary adjustment solution. Our position paper outlined a number of points of interest and concerns to the greater London business community regarding annexation. A copy of that report is included for your consideration in my package tonight.

On February 18, 1992, the London Chamber of Commerce made representations to Mr Brant to advise that the chief negotiator's report of January 1992 was generally consistent with the London chamber's statement of principles. The chief negotiator's report effectively ruled out two-tier regional government and confirmed that airport lands and the Highway 401-402 corridor should be within the urban municipality's jurisdiction.

We applauded the program of public consultation that had been launched. On September 24, 1992, the London Chamber of Commerce again made representation at public hearings in London hosted by Minister David Cooke. At that time, we made a number of points, and again for your purposes I have also included that position paper in your package tonight.

The thrust of our comments was the London Chamber of Commerce's support and commitment to legislation which created and maintained employment in the greater London area. We also spoke about the positive reaction from the business community in greater London and the ability, as a result of Bill 75, to contribute to economic revitalization and job creation.

At that time, we also expressed concern about the potential for stunted economic growth in our region due to moratoriums on all development at or immediately outside the city's boundaries until the new official plan was prepared to cover all of the land.

We were confident at that meeting of the minister's assurance that greater local autonomy would be considered on the issue of serviced development on our existing boundaries. With that assurance, it is incumbent on the business community to initiate and deliver well-planned, environmentally responsible and economically stimulating development for the greater London area.

To provide some history—I'm sure you've heard much of this over these hearings—the boundary adjustment process formally, although not initially, was started by the council of the city of London in January 1988. Through the Ministry of Municipal Affairs, local governments were given the opportunity to come with their own local solution to boundary adjustment and associated issues of servicing. A deadline of December 31, 1990, was extended to April 26, 1991. No local solution was found, however.

Ultimately, the report of the greater London area arbitrator, Co-opportunity, Success through Co-operative Independence, was released in April 1992. It was clear from the arbitrator's report that what was necessary was a long-term response for growth and economic development. It was determined that an expanded city of London was the most appropriate means of delivering the service and infrastructure requirements necessary for our area's long-term economic needs.

The analysis has been extensive. The public hearings process has been considerable. Most parties have come to terms with the decision as recommended by the arbitrator and put into legislative format by the minister. With all of the actions taken to date, it would be irresponsible to speak in terms of other thrusts and other ideas that would serve only to delay the important steps necessary for economic growth in our area.

We wish to make it clear that the solution developed for the greater London area is just that: for the greater London area. It would be inappropriate for this chamber of commerce to comment on what is right for other jurisdictions, but this is right for London, for our area, and it makes good economic sense.

As we press on with our January 1, 1993, time frame, it is important to acknowledge that there must be fairness in dealing with the important issues in the county of Middlesex, and we must also look to the greater good of citizens in greater London. To delay or further amend boundaries at this very late date would be a disservice to our citizens and to the business community.

It has long been our view that a leader's role is to lead. You have shown that leadership and you have the opportunity to maintain that leadership role and carry on with the successful resolution of Bill 75. The citizens of greater London and our business community deserve no less.

Mr Frank R. Berry: I might add to Mr Holder's comments, Mr Chair. I want to pick up on two or three items in the legislation which the chamber has taken a great interest in for many years—probably, as Ed mentioned, prior to even the 1988 formal submission.

First of all, with respect to the public utilities commission, we have been on record for quite a long time as being in favour of the city taking over at least the parks and recreation component. To us, it made no sense to have a separate elected body in the city running a function which was clearly a municipal function.

With respect to some of the planning issues, Ed has already referred to a couple, but we've had some concerns with the wording of the proposed legislation, Bill 75, with respect to provincial authority and provincial control over the official plan process. We have been reassured—I'm prepared to take Minister Cooke's word for it—that the province will act in a very pragmatic manner with respect to approval for development in an appropriate and timely manner.

We're satisfied with the provisions of Bill 75, with the protection that's built in there for agricultural land over the long term. We think, again, it's a very fair and a very pragmatic approach to that.

With respect to the buffer issue, we are in favour. We know it's not specifically a part of the legislation. The minister may establish a buffer zone. We would urge the minister to give that very serious consideration.

One of the very major problems, if you look at cities and municipalities throughout the province, is the urban sprawl immediately beyond the cities' boundaries. Controller Hopcroft referred to some of that earlier. The buffer zone will give that protection; it will make things a little easier to handle.

Finally, in terms of the development charges reference in the legislation, we have in the past urged the city to keep development levies at an appropriate level. We recognize, however, that with the expansion, with the need to extend these services now into areas beyond the existing city boundary, development charges will have to be looked at again, and we're fully prepared to support a reasonable

approach to financing the infrastructure development on development levies.

The Chair: Thank you. We'll start off with the third party. Mr Murdoch.

Mr Murdoch: In your presentation you mentioned that this was good for the people of London. Are you concerned about the people of Middlesex also and their concerns? I noticed you didn't mention that.

Mr Holder: I think it would be fair to say, from our perspective, not only are we absolutely concerned about their interests, I wonder by the implication of the question if you're suggesting that we are trying to do otherwise. I don't think that's a fair presumption.

Mr Murdoch: No, I just noticed you didn't mention it and I thought maybe you'd forgotten and I wondered if you were.

Mr Holder: No, we are not.

Mr Murdoch: You are not concerned with them?

Mr Holder: I beg your pardon.

Mr Murdoch: No, I think we got that mixed—

Mr Holder: No, I think that's quite rude. In fact, we are quite concerned about the citizens within the whole jurisdiction that's responsible for this legislation, sir.

Mr Murdoch: All right, and then they're going to annex 96,000 acres. A lot of that land is farm land. I notice you didn't really say too much about whether you're concerned that some of the best farm land in Ontario may be gobbled up. It's going to be serviced, and what's going to happen then? From what I've heard, I don't think London is going to go into the business of being a rural municipality. It is a city.

It was a good presentation. I just wondered if you had anything to say about the protection of farm land in there.

1750

Mr Berry: If I may comment on that, sir, the farm land is not going to be gobbled up. The London area is going to grow regardless of where political boundaries are drawn on the map.

Mr Murdoch: That's true.

Mr Berry: Would you rather see that farm land consumed by rural subdivisions and septic tanks at a rate of three to five units per acre, as opposed to 15 to 30 units per acre? I suggest to you, the continuation of the status quo will gobble up prime farm land at a far faster rate.

Mr Murdoch: Obviously, you're saying then, this is a better way to get rid of farm land.

Mr Berry: We're not getting rid of farm land.

Mr Murdoch: You just said, which way do you want to do it? You said you want to do it this way.

Mr Berry: Excuse me, sir. I would much rather—

Mr Sutherland: Come on.

Mr Winner: Ask a fair question.

Mr Murdoch: I asked a fair question. He answered it.

Mr Berry: If I may answer the question, farm land will be protected for a much longer time when development in the London region is on full urban services.

Mr Murdoch: It's still going to be gobbled up. It's going to the city of London. London is not a rural municipality. You said you didn't want to see it done by rural development; you want it done by urban development. The same way, we're going to lose farm land, and that's what the concern of a lot of people is, because it's some of the best farm land.

Mr Berry: At a much slower rate, sir.

Mr Murdoch: Yes, okay. It's a slower rate. It's still going to be gone, and once farm land is gone, it's gone. A slower rate is better and I guess that's what you have.

I notice you say that you're impressed with the way the government is forging ahead with Bill 75, and you give a lot of credit to the government for doing this. I notice at some other times there are other bills that you're not so concerned with, that sometimes you come to us and say, "Well, they don't want them to do this." I just wondered how all of a sudden the chamber of commerce got so much confidence in the government that it can do something so wonderful.

Mr Mills: Well, naturally, of course. Don't be so negative.

Mr Holder: Actually, sir, if you assisted in passing the bylaw we have regarding your decision as well—and I'm not trying to be trite by the response—I suggest to you it's like dealing with any government group; there are some things that we are in agreement with what governments do and some things that governments don't do. It is not our role to be the cheerleader for the government of the day, whether it be at the local, provincial or federal level, and when it does things right we think that it should be acknowledged, and when it does things wrong, as members around this table will note, we're not shy to tell it either.

Mr Murdoch: Okay, that's fine.

The Chair: I know you're not used to severing farm land but only the Niagara Escarpment Commission lands.

Mr Sutherland: I was just going to make some comments, and we all know Mr Murdoch is an expert on effective and efficient planning in rural areas, and I know he was glad to share his advice here. I just wanted to make an additional comment that I hope both members of the opposition will take back to their party leaders: the realization here that we've had a presentation that indicates that this government is being pro-business, and these constant attacks on the government being anti-business may not always be appropriate.

Can I just ask the chamber one other thing: Sorry, your official title, is it the London Chamber or is it the London and District? Do you have members who are actually outside the current boundaries of the city, who are out in the county?

Mr Holder: Absolutely. The formal title is the London Chamber of Commerce.

Mr Sutherland: Okay. London and District?

Mr Holder: No, sir.

Mr Sutherland: Just London.

Mr Holder: London Chamber of Commerce.

Mr Sutherland: Okay, all right.

Mr Will Ferguson (Kitchener): I just have one very quick question. As you know, people from the county have expressed a lot of concern about urban development of prime agricultural land. It's been suggested on a number of occasions, of course, that this can be protected through the official plan. Of course, as you well know, in the official plan that exists in the city of London under the Planning Act currently, it's up to the local municipality to interpret the official plan. I can understand the concerns there, because I know in some municipalities the official plan has been interpreted in very strange ways.

What kind of guarantee do you think we ought to be giving the county population to ensure that the official plan will only be interpreted in a very strict and fair manner? Would you agree that we ought to be enshrining in this piece of legislation some sort of guarantee that it is a pretty strict interpretation? I have seen lines being drawn and pulled over, lines and boundaries defined where nobody sees them on a map etc. I'm sure you're aware of that as well.

Mr Berry: I think, if I can answer that, the official plan, obviously, of a municipality is only as good as the strength of the resolution of that duly elected municipal government to enforce it or to ensure it's implemented.

In the provisions of Bill 75, specifically with respect to the role of the ministry, which is somewhat unique—it's a new departure, certainly in my experience, in planning and engineering in the province—at least in the initial stages will go a long way to ensuring that the official plan doesn't become just papered on the wall and then totally ignored afterwards. As I said early in my part of the presentation, we have a great deal of confidence in the statements of the minister with respect to carrying out the objectives of the annexation process.

Mr Holder: If I might add to that as well, we feel it's important that current members from the county participate in the official plan. May I also say that our belief is that having a single jurisdiction to control development and all that goes into the implications of an official plan would be preferable to what we consider as piecemeal development, with the various municipalities competing for assessments and other aspects of their tax base. Certainly, from the standpoint of the official plan, we think they should have a more comprehensive program under one single jurisdiction.

Mr Eddy: I have to follow up. You'll always find municipalities competing for industry and commerce right across this province, with the help of the government to hurry it along in some places more than others.

My only question is about the London PUC. I wondered if the members realize or feel, I guess, that it's better for the government to impose the dissolution of the London PUC, a body elected at large, or maybe by wards, by the citizens of the city of London and indeed established by the citizens of the city of London. Many PUCs were established by plebiscite at the municipality.

It's had several studies, but it seemed to me the city of London council voted just three or four years ago and the vote was to keep the PUC. It is rather a strange organiza-

tion. I was amazed, when I arrived to work in the city of London, that there was a PUC that had so many responsibilities. I said, "That's the way city council or the city people must want it." I don't know; it's a locally elected body and it must be under the statutes, the Power Corporation Act and maybe by plebiscite.

My position on the whole thing is that it's an internal city of London problem and I think maybe it should deal with it, but maybe you don't agree with that. Do you want to comment on that one?

Mr Berry: Yes. In some respects I think your point, Mr Eddy, is well taken; it's a body. However, to say it was the way it was chosen or the way the people of the city of London wanted it, I think, is perhaps a moot point.

The PUC started in 1911 as the hydro-electric provider and from there grew just like Topsy. It kept adding little pieces, for whatever reason. London's always had a reputation here at Queen's Park of doing things differently. I don't know why, but we have. We always do things differently. The PUC grew into a rather unique form, different from any other municipality in the country.

I think inevitably the PUC's functions, other than those provided for by statute, such as the power supply, would have been taken over by the city, regardless of whatever else happened. You referred to a council decision a few years ago. You're probably as well aware as I am that that's come up before council several times, every so often, because there is always the concern: "Why are we doing it this way? Is this the most efficient way to deliver services?" Like everything else that's been entrenched in tradition, history and everything, it's difficult. It's like the Gordian knot: You can fiddle around with it and try to untie it until somebody comes along with a sword and, there, the problem's solved.

Mr Holder: We'd like to stress as well, it's our view that the services currently provided by this PUC will certainly not mean, by virtue of the change, any less service to the citizens of London and, may I also say, to those residents who are in Middlesex county who would be brought under the city's jurisdiction.

We also have to believe that there are going to be efficiencies. From a business perspective, where we and governments and other organizations are trying to be so mindful of dollars spent, you can't help but believe that a variety of services that are currently provided can certainly be financially benefited by virtue of the amalgamation.

I can tell you that the intention certainly is that no one will lose his or her job as a result of this; that's clear. Through attrition and good planning, I think it's very clear, even when you look to the extent of the new city engineer for the city of London. Based on the recent retirement of Darcy Dutton, our city engineer, that's been taken over by the PUC's chief engineer. We think that's good planning. So to the point that there will be efficiencies associated with this, that's good for business and certainly good for government as well.

The Chair: Thank you, Mr Holder and Mr Berry, for appearing before this committee.

Mr Eddy: I want to add my thanks for the presentation and the information.

Mr Ferguson: I would like to add my thanks as well. I just wanted to mention that I don't think any party is pure in this hearing or this process, before anybody starts throwing stones, let alone boulders. The Conservative Party has members who don't support this bill, we have members who don't support this bill and the Liberal Party was suggesting, when we were in the fight to preserve agricultural land in Ottawa, that we ought not to be in that battle.

The Chair: I'd also like to say to the committee members that there's a letter here from Mr Stewart McColl.

Everyone should have a copy. There were some press releases from the London region that were sent to my office and a press release also from the London-Middlesex coalition. There's a package there. There are responses to the questions from Irene Mathyssen this morning. If you take a look in your package, they're all there.

This committee will be adjourned until 10 o'clock Thursday, whatever date. We'll proceed with the subcommittee meeting right now.

The committee adjourned at 1803.

ERRATUM

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Mr Otterman: I would just comment that when you say the books are cooked, I think you've got to be careful of that, too. It's a little generic. If you're talking about the budget and the estimates therein, fine.

Mr Stockwell: That's what I'm talking about: They're cooked.

Mr Otterman: But if you're talking about the financial statements of this province, they haven't been cooked.

Mr Stockwell: That's what I'm talking about, the budget: The numbers are cooked.

Mr Otterman: Okay.

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- *Mills, Gordon (Durham East/-Est ND) for Ms Ward
- *Winninger, David (London South/-Sud ND) for Mr Wiseman

*In attendance / présents

Also taking part / Autres participants et participantes:

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- Murdoch, Bill (Grey PC)

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service



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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 5 November 1992

Standing committee on finance and economic affairs

London-Middlesex Act, 1992

Chair: Ron Hansen
Clerk: Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Jeudi 5 novembre 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur
London et Middlesex

Président : Ron Hansen
Greffier : Todd Decker

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 5 November 1992

The committee met at 1008 in committee room 1.

LONDON-MIDDLESEX ACT, 1992

LOI DE 1992 SUR LONDON ET MIDDLESEX

Resuming consideration of Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex / Loi concernant les annexions faites à la cité de London et à certaines municipalités du comté de Middlesex.

The Chair (Mr Ron Hansen): Good morning. I'd like to call the standing committee on finance and economic affairs to order. It being Thursday, November 5, we're going to be on Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex.

CITY OF LONDON

The Chair: This morning, the first witness is Mr Tom Gosnell, mayor of the city of London. Your worship, would you identify your colleagues also for the purposes of Hansard? You may begin. You have one hour, until 11 o'clock.

Mr Tom Gosnell: Thank you, Mr Chairman. Joining me today in putting forward the city of London's presentation is our deputy mayor, Jack Burghardt, and Councillor Paul Yorke. Our city administrator, John Fleming, is also here to answer any questions that you or the committee may have for any of us.

At the outset this morning, let me say that the issue of boundary adjustment or annexation has been on the table in the London-Middlesex area for over a decade. Deputy Mayor Burghardt, myself and, over the years, various members of city council and city administration have been involved in open, extensive, intensive negotiations that bore little fruit in the way of a made-in-London-Middlesex solution.

We, as a committee representing London, come to these hearings not only to demonstrate the need for boundary adjustment but to point out the substantial amount of work that is already under way to facilitate the future.

Following our brief, we look forward to answering any of the questions you have on these issues.

The city of London views annexation as the key issue facing both London and Middlesex. Bill 75 will have a dramatic and positive impact on the development not only of London but the entire region.

With all due respect, the real issue before you is the question of urbanization: orderly urban growth to meet the economic, environmental and social wellbeing not only of the city of London but the entire London-Middlesex area. A wide range of sensitive issues from land use to environmental controls to social planning must be addressed so that the citizens of London and our neighbouring municipi-

palities clearly have a vision for tomorrow. A shortsighted, piecemeal solution is simply not adequate.

London firmly stands behind Bill 75's proposal for a one-tier government system responsible for a large urban area, for several reasons, including a reduced cost in delivery of service and duplication often found in two-tier systems.

Bill 75 accomplishes a broad spectrum of answers to serious concerns. It places lands having the greatest potential for industrial development, like those abutting the Highways 401, 402 and 100 corridors, as well as the London airport area, under the city's control, thereby improving viability of servicing for these areas and taking full advantage of the city's economic development services and programs. We believe London is in the best position to provide services efficiently and reap the benefit of economies of scale necessary in this competitive marketplace.

In fact, in recent months the positive impact of Bill 75 has already come to the forefront. Dimona Aircraft of Austria has purchased a vacant manufacturing facility and will begin the construction of light aircraft, hopefully within the year. This plant requires municipal water, sewers and services to become operational, services that only the city has the wherewithal to provide. Without boundary adjustment, this facility and the potential for literally hundreds of jobs and millions of dollars in investment would have been lost, not only for London but our entire region and Ontario as well. It is the confidence of investors like Dimona that built this province. We simply cannot lose sight of that in an economy that is facing unprecedented challenges from a global market.

Annexation—the clear delineation of the urban and the rural—including the buffer zone that Bill 75 creates while new official plans are being developed, will eliminate much of the intermunicipal planning disputes and competing interests for development by placing the urbanizing areas along the city's current boundary under the city's control. Further, it provides greater consistencies in policies, procedures, permit fees and development charges in the area subject to economic development pressure. We believe that too will maintain investor confidence in our area.

Boundary adjustment also enhances the city's ability to implement transportation and transit planning to improve the efficiency of the movement of goods and people within, through and around the urban area.

The passage of Bill 75 should facilitate the extension of city sewer and water services within our existing capacity to accommodate development in substantial portions of the boundary expansion area, thereby expediting the creation of growth opportunities, investment and jobs.

The strategy also incorporates all of the drainage areas that are serviceable through the extension of existing city sewer systems as identified in the pollution control planning

study currently being carried out by the city of London through McLaren Engineering. City water services can also be extended to these areas.

Bill 75 provides sufficient lands suitable for urban development to provide for a minimum of 20 years' growth and a potential population growth of 100,000 and more, while allowing for a reasonable element of choices among sites with various locational attributes.

Mr Jack Burghardt: We strongly believe that every measure must be taken to protect the environment. Bill 75 avoids urban sprawl and improves the efficiency of land use by providing for development on full municipal services at appropriate densities in an orderly sequence of development. It reduces the competition for assessment growth and the resulting potential for the introduction of urban uses at inappropriate locations. And Bill 75 provides the optimum solution for existing and potential environmental problems associated with the inadequacies of private waste disposal systems in the Lambeth and Hyde Park areas with an extension of city sewer systems.

Another important factor is that it will allow for the creation of affordable housing opportunities in all parts of the urban area.

Bill 75 recognizes that London has an appropriate policy framework and planning capacity to provide for the protection of natural features such as flood plains, ravines and steep slopes, wetlands, woodlots and other areas of ecological significance. Designated open space systems or areas that extend to the current boundary, such as the Medway Valley, Meadowlily Woods, Warbler Woods, Westminster Ponds complex and the north branch of the Thames River Valley, can be appropriately extended into the annexed areas.

The city of London will provide for the protection of farm land and rural character in the areas not required for development through the adoption of appropriate official plan policies. Such policies would require the orderly staging of development and infrastructure expansion, area planning to achieve reasonable densities of development, and the adoption of consent policies and zoning for the rural areas that will discourage non-farm-related land uses and land severances.

The orderly management of growth within the urban area will discourage land speculation and encourage the retention of land in agricultural production.

Some basic facts simply cannot be overlooked:

The city is the only municipality within the greater London area that has the financial resources to undertake the cost of the major infrastructure projects necessary to achieve effective growth management and environmental protection.

The extension of city services to the serviceable portions of the proposed amalgamation and annexation areas is the appropriate form of infrastructure investment to expedite economic growth.

Amalgamation of the city and Westminster avoids the problem of assessment loss to the town and provides some cost saving by eliminating the duplication of some administrative functions.

Bill 75 will result in a more equitable distribution of social program costs across the whole of the urban area.

The assessment loss to the surrounding townships is kept at manageable levels by not expanding the boundary to include communities such as Arva, Thorndale, Dorchester and Delaware.

As deputy mayor of the city of London, I'm also charged with the responsibility of being budget chairman. During the past few months and in conjunction with ministry staff, our city administrator John Fleming has presented our council with a sketch of the potential impact of Bill 75 on London ratepayers.

In 1993 the service levels to be provided in the merged areas will be the same as what was provided in 1992. Our research indicates that the costs of providing these same service levels in the merged areas in 1993 will not be significantly greater than what was incurred in 1992.

As a major consideration, council will have to determine the appropriate levels of service for the annexed areas and the rate at which improvements will be phased in. It should also be emphasized that any capital costs will be financed in accordance with the city's financing ratio.

A chart prepared by our city administration and provincial staff is attached for your review as part of our brief. Taking into account the proposed compensation package to the annexed municipalities and transition assistance from the province, the bottom line reveals a 2.7% increase in costs directly attributable to annexation. On an average property tax bill in the city of London that translates to \$23.40. That quite clearly dispels rumours of taxes doubling overnight as a result of annexation. And those figures reflect a level of service to annexed areas that in many instances is beyond levels enjoyed today.

The figure of \$23.40 reflects the long-term fiscal responsibility and planning demonstrated by the city of London for many years. As a matter of fact, we have already received reports from our various department heads that show the figure of \$23.40 can be pared down.

Londoners already enjoy the lowest municipal taxes of any city over 100,000 in Ontario. With annexation, that position will only strengthen.

Mr Paul Yorke: Mr Chairman, it would be remiss of us if we did not also mention the extensive work that is already under way in an effort to facilitate the January 1 deadline for boundary adjustment. Various committees, boards, commissions and councils have come together to begin the planning necessary to bring about as smooth a transition as possible.

Council has approved this week the mailing of offers of employment to all those affected by Bill 75, subject only to the bill becoming law. We have done that because we believe that staff affected by the bill deserve some certainty about the future of their employment and their careers. The task force on local government restructuring has already made several substantial motions which have been adopted by council.

The interim boundary transition committee, established by the London city council, is well into reviews of matters concerning not only social planning, but emergency services,

human resources, financing, the buffer zone and the public utilities commission amalgamation.

1020

In the area of that amalgamation a coordinating group, consisting of senior city officials and the PUC, has been established to work out the details of the appointed hydro-electric commission.

Several resource groups have been established and are currently meeting to:

(a) verify the services that have been identified as being provided;

(b) determine the recommended allocation of services, whether to the hydro-electric commission or the city, or whether they are shared and delivered by the hydro-electric commission or the city;

(c) identify staff required for each service.

It should also be noted that the city council supports the concept of an appointed hydro-electric commission, for reasons I can elaborate upon later, if you wish.

As well as those efforts, city staff and Mayor Gosnell have been actively involved in ongoing boundary transition meetings involving technical and related matters with elected and administrative representatives from all municipalities affected by annexation. Under the guidance of ministry staff, those sessions have produced excellent results.

There has also been a great deal of conjecture about land use and planning by the city of London within the lands annexed in 1961. We have the evidence for you that demonstrates responsible densities and population projections.

First and foremost, London compares favourably to other municipalities. The built residential density in London is comparable to other municipalities: for example, London, 16.4 units per hectare; Kitchener, 14.4; Etobicoke, 14.1; Windsor, 17.9.

London has provided for higher-density residential development. The planned residential density for new areas in London is even greater than the present residential development densities: in our new subdivision to the south-east, Jackson, 28.6 units per hectare; for Kilally Road in the northeast, 25.6 units per hectare.

London acquired already developed residential areas in the 1961 annexation that had low-density residential development. Most of them were on septic systems. Some areas that were already developed at the time of the 1961 annexation at generally low densities were Byron, 7.9 units per hectare; Oakridge, 6.2 units per hectare; and, Orchard Park, 5.7 units per hectare.

Since 1961, new development has been at higher densities than existed in the annexed areas. The residential density in annexed areas of London developed since 1961 exceeds the density of annexed areas that were developed prior to 1961: in Stoneybrook to the north, 15.4 units; Westmount to the southwest, 18.9 units; White Oaks, 24.3 units per hectare.

It should also be stressed that the recent development activity outside the city has been at lower densities than development within the city. The residential density in new subdivisions in areas adjacent to the city have been low-density residential developments: for example, Lambeth

Walk in Westminster, 5.8 units per hectare; South Winds in Westminster, 5.4 units per hectare; the Monteith subdivision in Thorndale, 5 units per hectare; proposed OPA number 12, Westminster, 12 units per hectare; and, OPA 25 in London township, 4.3 units per hectare.

The composition of housing stock indicates that there is less single detached housing stock in London than in other Ontario municipalities. The percentage of single detached units in London is generally lower than in other Ontario municipalities: London, 50.5% of our housing stock is single; Hamilton, 52.1%; Waterloo, 56.5%; Sarnia 68.5%; and, Windsor, 62.7%.

Also, London provides proportionately more apartment units of five stories and greater than other Ontario municipalities: London, 19.8% in apartments; Hamilton, 18%; Waterloo, 12.3%; Sarnia, 9.5%; and, Windsor, 13.7%.

We believe this data graphically show responsible planning, responsible land use and a rational projection for future needs.

Mr Gosnell: In conclusion, boundary adjustment is essential. London has demonstrated since the 1961 annexation an excellent fiscal, land use and planning strategy. This community is one of the top Canadian cities, not only from an economic standpoint but from a planning and lifestyle standpoint as well. Annexation will not only solidify but improve that position.

London is poised to provide the municipal leadership and infrastructure needed for responsible growth in this vital part of southwestern Ontario. We are challenged and excited by the opportunity and the need to plan in an entirely new way.

As I said at the outset of my remarks today, this is an issue of urbanization and of which community is best poised to provide affordable municipal services. It is our belief that following January 1 of this upcoming year, the strong and prosperous relationships that have grown and developed between London and its rural neighbours over many generations will continue to thrive.

Londoners, under Bill 75, have many challenges to face but will continue to prosper. We are committed to supporting the efforts of Middlesex county as it too defines a new role for itself in southwestern Ontario. Middlesex will prosper, with expectations and responsibilities clearly defined, not only for the remainder of this century but well into the next as well.

Thank you for the opportunity of making this presentation.

The Chair: Thank you. We'll have about 10 minutes per party, and Mr Mills has some comments from the ministry.

Mr Gordon Mills (Durham East): To enable the committee to focus and perhaps understand the overview of the financial impact sheet, page 12 of the presentation, I'd like to ask the assistant deputy minister for Municipal Affairs, Mr Brian Riddell, to come forward and expound on that financial impact for a few moments, if that's agreeable.

Mr Brian Riddell: I'm Brian Riddell, assistant deputy minister, Municipal Affairs. Further to the comments made by Controller Burghardt about the compensation and

the work that's been done in cooperation and partnership between the city and the Ontario government, I just want to say that a lot of work has been done to try to put some precision to the compensation figures. The reality is that people in the area are very concerned about what the impact of the annexation will be, and particularly concerned about the impact on their taxation. That was a concern the minister certainly had when he made the announcement, that the annexation in the London-Middlesex area shouldn't have an impact in the area on municipal tax bills. Certainly, the work the city has been doing is working along to try to minimize that.

I should say there's a fair amount of additional work to be done. The work you see in that table is based upon some preliminary information. There is more work that has been done to put some precision to those figures, but I think we have to recognize that there are some unknowns. Things like the new official plan in the area is one that neither the city nor ourselves are able to put any precision to at this time, but we're working towards doing that.

There are other elements of the compensation or the cost elements, particularly in 1993 and 1994, which really require more what I refer to as pre-engineering or detailed design. The new communications system is one that involves a new technology in terms of providing those kinds of communications services for protecting the area, and there has to be a lot more work done to determine the actual cost implications of that. At the same time, the city is looking at some of its other departments in terms of how they might respond as well in terms of the services they will provide in the annexed areas.

The Chair: For the committee, has there been any ballpark figure of the mill rate increase? There was \$23.40, which would look like an increase. Are there any ballpark figures?

Mr Burghardt: If I may—

The Chair: No, from the ministry. Have they done any studies on that?

Mr Riddell: No, the information provided by the city is really the information as we know it now.

The Chair: Fine, thank you. We'll start off with Mr Eddy.

1030

Mr Ron Eddy (Brant-Haldimand): I'd like to welcome the delegation from the city of London. I appreciate their input and a well-prepared brief.

As an opposition member, of course, I find myself at a great disadvantage when it comes to talking about the compensation to and by the city of London, noting that the parliamentary assistant has said that compensation will be paid to county and, I believe, affected local municipalities now by the city and/or the province. Were those the words: and/or the province? I believe that's because negotiations are presently ongoing, so we may not know what that actually is by the time the government passes this act. I'd like to ask a few questions primarily about the compensation package.

Realizing that the amount of land is far in excess of what was requested and perhaps wanted by the city of

London, I can understand the council's acquiescence to the package, because it's being offered on a platter. But I wonder, first of all, if you could comment on the compensation package. I don't know what it really is at this point in time. Does the city find the compensation package for the deal proper and acceptable?

Second, on the matter of compensation, realizing that the city is taking on tremendous additional responsibilities, and I expect will want to proceed with considerable development, and being advised by individuals, and knowing indeed, that the water supply is in question at the present time and that sewage treatment facilities are, in some cases, either at or over capacity, I've been advised, does the compensation deal include very large provincial funds for those particular services? I hope you've nailed the province to the wall for an additional Great Lakes water supply, because now's your chance, this is the chance—and the sewage treatment, realizing that the town of Westminster does have a sewage treatment plant that's shared by the city and the county.

Mr David Winninger (London South): Is there a question in this, Ron?

Mrs Dianne Cunningham (London North): Three, David.

The Chair: You have 10 minutes.

Mr Eddy: We can start over and do it one by one, if it's confusing to the member opposite.

Mr Gosnell: I think I kept track of the questions. We don't want anyone to have the misunderstanding that the package that's being put forward in terms of land is one being foisted upon us. This reflects what we asked for in April 1991, prior to the arbitrator being appointed, so it's very consistent with what we had asked for, and we stand very strongly behind that request, which is what is in Bill 75.

Secondly, on the compensation package, we're satisfied that the numbers that we've worked out are responsible and reasonable. London never did this as a tax grab, and we said that right from the beginning, that we wanted to show fairness and equity as it related to the neighbouring municipalities. Our understanding is that that has been accomplished.

Further to that, we've agreed that the suburban road payments, which Mr Eddy of course would be very familiar with, being clerk-treasurer of Middlesex, would continue not only for the 10 years that we've agreed to but in perpetuity, as it has for so many years in the past in London's area; that will continue. So we feel confident that in reviewing the services we're providing, we've been on the small-c conservative side of the estimates. We've made sure that we've accounted for as many different costs as we can, including over \$3 million for official plan work, and we have no questions or reservations that we have adequate services for the expansions within the next five to 10 years.

In fact, by the summer of 1994, we anticipate picking up an additional 11 million gallons per day of water from the Elgin pipeline system. That has now gone out to engineering and environmental review; it's basically completed, the

environmental part. We expect to have that supply of water in place by the summer of 1994.

In terms of sewage, we have capacity in our system. It's something that we are continuing always, as most cities do, to upgrade and review from time to time.

That's why it's so critical that we determine now the extent of the land. The piecemeal solutions of the past don't work, because we cannot adequately plan for the tens of millions of dollars of future service requirements for urbanizing in the London area. By knowing the area of the watershed and the areas that can be urbanized, we can make the proper planning decisions, which not only saves the taxpayers of London dollars, but also saves the province of Ontario many hundreds of thousands, if not millions of dollars worth of expenditures.

We've given a lot of thought, Mr Eddy, to your considerations. We recognize the responsibility we're taking. As most members here will recognize, larger cities develop new areas with development charges, which are those charges placed on the sale of lots or apartment units or commercial development, paid for by the consumers of those new products at the time of development or purchase of the property, so we've taken that into consideration.

London is in a unique position. It's very strong financially. It has an AAA credit rating and the lowest taxes of any city over 100,000 in Ontario. In no way do we wish to jeopardize that, but it's given us an opportunity to financially and responsibly plan for the future.

The Chair: Mr Eddy, you still have some time left.

Mr Eddy: We note the fiscal responsibility of the city of London as you've set out in the paper and that's certainly to the city's credit.

In regard to the Lake Erie water pipeline, will the province be participating in that? Maybe you've said that. I'm not clear on that. Who will be paying the costs of the extension of the east Elgin water system?

Mr Gosnell: The total cost of that system is, I believe, 10% to 15% provincial and the rest is user pay. As you know, with the Huron system, which is about \$60 million to \$70 million, the taxpayers of London, who are about 95% of the use on it, have paid for that system. Any review of the need for that system clearly indicates that it's required. It can be financed properly and it keeps the water rate to the municipalities of London and surrounding areas which can avail themselves of that service among the most enviable in the province in terms of cost.

Mr Eddy: That's important news. In view of the fact that we are told the negotiations, with the city at least, are ongoing regarding the compensation package, I'd like to know if that's so. I suppose as changes are proposed, that's up to city council's approval and we'll be hearing more about that. Is it ongoing or finalized?

Mr Gosnell: I can give you an example if you look at the sheet that we provided, page 12. When it relates to policing costs due to annexation and the improved service levels, the 2.7% we're talking about has a positive impact on the areas that are being annexed in terms of fire protection and police protection, just two of those services. Now if the city wants to go back to providing on January 1,

1993, no more than the services that are being provided now just for policing, that mill rate increase would drop from 2.7% to 2.2%.

The question that we'll be asked by our council at budget time is, at what level are we going to provide services to the new area? Obviously, they're paying for X level now. Our intent is to try, over a very short period of time, to bring it up, as much as possible, to the level that's enjoyed by the city of London, within reason. You obviously cannot have the same response times on fire and police calls as you do in a more dense area. I think it's an indication that we have overestimated the costs, that we have not underestimated them. On the other side of the ledger, it's very difficult for us to predict what the new revenues will be.

The reason we're here and the reason the government—not only the past government but this government—is proposing this type of an annexation or boundary adjustment is for the opportunity for enhanced revenue to the province. That will mean revenues not only to the city of London but to all taxpayers in the province of Ontario. I think all of us, whether we're at the local level or the provincial level, have a responsibility to create jobs, to create investment opportunities and to get our public back to work. London represents that opportunity.

The Chair: I'm sorry, Mr Eddy, that I have to cut you off; the time's up. Ms Cunningham.

Mrs Cunningham: Welcome. I thought I did a good job of talking about London down here, but you guys really do a very good job, so that's nice.

Mr Eddy: Is this London day?

Mrs Cunningham: I was about to give you a good one too, Mr Eddy. The member for Brant-Haldimand has been so involved in this for so many years that I appreciate the questions he asks, because they're very technical and not the kind I could ask. You're going to notice a distinct difference in the questioning now.

This is a very important issue, of course, both to Middlesex county and the city of London and there's no one questioning the tremendous need for annexation or the long overdue decision on this. Certainly, we all know what it's going to do to the southwest Ontario economy, hopefully, and those are certainly the projections we have. But there are some concerns, and I'm glad the mayor and the deputy and the councillor are here today, because I want to get their responses on the record. It'll help me in my work as I try to represent the citizens of London, and many in Middlesex, who are writing.

1040

I'm just going to ask four questions and you know you can take your time in responding to them. The biggest issue I have to respond to is the size of the annexation. I think that almost without exception, and it may be your view as well, people are concerned about the large size. I'd like you to respond to that in any way you feel is appropriate.

I'd also like you to respond to the process, because that's the next largest concern I have, in two ways: first of all, the timing. There's a great deal of confusion as to how many times the county and the city have gotten together,

and the length of time. Sometimes there's a great deal of animosity around the use of the terms "10 years" or "5 years," if you could clarify that.

The second part of the process question that I think is extremely important to the members of the Legislature who represent rural Ontario, which may be facing this kind of an amalgamation in the future, is that they want to know if you think this is a good precedent, meaning "arbitration," for future annexations. If I could get your opinion on that, it would be helpful, because you've now gone through it and you've watched other annexations in the past.

The last question, and I think equally important, is the whole issue around the preservation of farm lands as far as possible, whether it be within the annexation area or in this belt thing around us, which I don't understand.

I've given you three things to talk about. You can imagine that we need them to be clarified. We just simply haven't had the opportunity, your worship, to have you speak directly to these.

Mr Gosnell: Maybe we can divide these questions up. I'll start off, if I could, with the question of size. Again, I would not want this committee to misunderstand, other than that London is very much in favour of the size of this annexation. There were obviously discussions over many years as to how big that would be, and there's been some discussion recently that while the city would be prepared to negotiate something different, that's not the case.

We are satisfied with this recommendation by the minister. It is consistent with our recommendations in April 1991. There was an opportunity at one point to look at a lessening of the size to the south end. I believe you called it the Mathysen response. We had some discussion by the minister on that.

We had a meeting here in Toronto with the minister and the deputy minister at the end of June or the first part of July—I'm not sure which—at which one of the members here, the minister and the reeves of North Dorchester and Delaware and the mayors of Westminster and London spoke and directed us to that request to look at a lessening of the area that would be taken in Westminster. All four parties agreed in writing that it should be part of the city of London and should not be left on its own, that it should be part of the new city of London because it would not have the assessment base or the tax base to stand by itself as a township. Neither Delaware nor Dorchester were interested in acquiring it because of the costs that would be incurred by those townships, and they obviously would need to bring in development to pay for those costs if they were to assume it.

At that point it was recognized that this area in Westminster would remain as part of the new city. Further to that, for years we had heard from Westminster: "It's all or nothing. We don't want our township being apportioned and piecemealed and put into different directions."

To make sure we're very clear on the question of size, we're satisfied with it. It gives us a long-term horizon for planning and it allows us to do the servicing and engineering studies required, and we believe it's very much in the interests of our region.

On the question of process, maybe I could ask the deputy mayor to answer that one.

Mr Burghardt: Thank you, your worship. To Mrs Cunningham, we certainly went through an extensive process. As you're well aware, the most recent position of course came about in 1988. Prior to that, the city and county had negotiations dating back 11 or 12 years. Mr Eddy will remember that. The most recent one began in 1988, when we put forth a proposal to the county, to the surrounding townships. At that time we did not include two of the townships which are now involved. It was to Westminster and also to the county as a whole and to London township to the north.

Unfortunately, Westminster at that time wouldn't talk with us—plain, simple, and I can't put it any more simply than that—it would not talk with us.

[Interruption]

Mr Burghardt: The county would certainly talk with us—

The Chair: I'm sorry, there can't be any catcalls from the audience.

Mr Burghardt: I'll go on with it. The ministry established a fact-finding process that we went through. We sat around the table. All parties were represented. We put forth position papers. Ministry staff of various departments—agriculture, finance, the environment—many of the ministries took part in that process. From the fact-finding a position paper came out and then we began negotiations that went on for an extensive period of time, again under the chair of the Ministry of Municipal Affairs.

As we're all aware, of course, we couldn't arrive at a local solution. We were given a deadline of April 26 of that particular year, but I have to say that following that we still had informal, ongoing discussions with the county and with some of the townships involved. Again, it did not involve the town of Westminster. You know what happened then. The ministry and the minister appointed an arbitrator and here we have Bill 75. But the process was extensive, Ms Cunningham, and we tried our best to work out a local solution. Unfortunately, that didn't come about.

Mrs Cunningham: Could you just respond on the future? Could this be used elsewhere, do you think, or is it unique to London? Just take it a step further. I get asked that question all the time. What's your view on that?

Mr Burghardt: That this is unique to London, this particular process?

Mrs Cunningham: I don't know if it is or not. What would you recommend? We've got a lot of rural people saying this could happen again.

Mr Burghardt: No, I don't see this as a precedent; I really don't. I believe it is unique to London because of our location, because of Middlesex county and because of the importance of southwestern Ontario. In my personal view—people may not agree with me—I don't see it as precedent-setting.

Mr Yorke: As it relates to farm land, if I can answer that particular question, Londoners do not have the perspective of regional government like you do, because there

are no regional governments around London. So they really—

Mr Eddy: Amen.

Mr Yorke: I beg your pardon?

Mrs Cunningham: We all say amen to that.

Mr Yorke: As a result, then, they don't understand the concepts. As soon as they think of an urbanization, they think of it going right out to the boundaries.

Those of us who have been around for a while know what happens in regional governments. We know, like the regional municipality of Niagara, that when you enter into Niagara, you enter the fruit land long before you get to the Falls and urbanization, and that there are policies to protect the rural areas.

We look at ourselves as a single-tier regional government. We're going to put those kinds of protections into our official plan. We're mandated under section 30 of the act.

In addition, we have established already the principles for a rural agricultural committee to report to council, and we're looking forward to make sure that the leap-frog type development that's been taking place in our area doesn't take place and that we have a logical development from the centre. We feel that in the long term the farm land will be more protected by a single-tier regional government to the scale with proper planning policies than what would take place now.

Mr Kimble Sutherland (Oxford): I want to pick up on that question. First of all, thanks for coming and for your presentation.

In the brief, Mayor Gosnell talked about the annexation, about an issue of urbanization. You've talked about some of the things in process in terms of what the city is going to do to protect the farm land.

I live in a town now, but grew up in the country, and certainly all the rural people I talk to are always very sceptical about how urban people will protect agricultural land. I think that's a reality in this case. It would seem too, though, that regarding the most southern part of Westminster, primarily farm land, there isn't going to be a lot of development there. Why would the city necessarily be interested in the most southern part?

Obviously, we know you need some land to expand and have some annexation, but I guess people really want to know how the city is going to prove it actually can manage that type of agricultural land. Would it not possibly be better run by some type of rural municipality? I guess what really people have a lot of scepticism about—I would say the people I've heard from would have that scepticism as well. The track record of urban municipalities looking after agricultural land leaves many people sceptical. What assurances are you giving to everyone that this is going to be a different situation?

1050

Mr Gosnell: That's a good question. It's very much to the point of what's gone on for the last year in terms of discussions in our area. Right from the beginning, the Ministry of Agriculture and Food indicated to the discussions at the fact-finding that Controller Burghardt spoke to you

about that agricultural lands can be as well protected in a city official plan as a county official plan. Those aren't my words; those are from the ministry representatives who appeared at the fact-finding.

It's interesting that once those discussions were held, never again with our discussions, until the very end, was there any discussion about farm land. This has been an issue about development and urbanization, who best was in a position to provide the resources, the planning and the finances to make it happen. But our new official plan—and it's mentioned for Bill 75—must include not only official plan land uses and a social plan; it also has to have some discussion on agricultural zones and how we intend, within a city official plan, to protect and preserve farm land within the community of London.

With our new committees we have gone as far as to look at how we can make sure we have representation from the agricultural and rural communities on the committees that affect these new lands that are coming into London. One of the opportunities, as I'm sure you're aware, Mr Sutherland, is the county-city liaison committee, which should really have more opportunities to communicate and to discuss these issues between the county of Middlesex and the city of London. We see it providing the leadership in areas such as regional environmental planning, waste management, transportation planning and certainly as it relates to the agricultural and rural character of the new lands coming in.

We take that seriously. We know that it's a very divisive issue. As I said earlier, we had an opportunity, through Ms Mathysen, to look at some of those lands in the southern part of Westminster being in other than London. But the tax base was not there to allow it to continue even as a separate township, and the townships to the east and the west, Delaware to the west and Dorchester to the east, felt that it would be inappropriate and signed off on their interest in having those lands come into their jurisdiction. That was looked at. We're trying to make sure the people in that area are protected. Our official plan is required to show how we do it and we think we can meet that challenge.

Mr Winner: I too would like to thank the city for its very detailed and well-prepared presentation. From time to time we have our disagreements, but I'm still hoping the city will see the light with regard to our proposal on apartments in houses, which I think ties in very nicely with the strategic vision that the city is engaging in for the greater London area.

I think one thing we do agree on is that we need to develop the new official plan within the context of a strategic vision for London. I know there's a lot of work going on, and of course that strategic vision has to combine opportunities for economic growth and development with protection of environmentally sensitive areas and agricultural lands.

So my question to you is, is it your understanding that the development of the new official plan that's required under Bill 75 will address not only the land to be annexed but also the lands that are currently within municipal boundaries? That was one part to the question. The other part is, do you agree with my understanding that development will

not go ahead in the annexed areas until the official plan is complete and until we've identified with the very real inventory of environmentally sensitive areas and agricultural lands that need to be preserved and protected?

Mr Gosnell: To your last question first, the city and the province are committed to no major development in the new areas that will be annexed into the city until the new official plan is adopted, unless it is something of a very urgent nature. A new manufacturing facility could come in and be on our boundary, contiguous to services, and perhaps could have ministerial regulation or order to have it proceed. Unless it was something urgent—and I think we'd all have to agree that there are some areas that could be urgent—the new official plan will have to be in place. We expect to have that done by January 1, 1996.

Regarding the new official plan, the province is challenging the city of London to come up with the idea of a social part of the official plan, which is really quite new in Ontario. At first blush we didn't know what it meant and we didn't know if we'd be very enthused about it, but it really does provide an opportunity to look at things we are already doing in terms of affordable housing, intensification and a number of different programs.

The new official plan will contain land use, environmental and social issues in parts for the new area. The only part that will affect the existing city will be the social part because, as you know, we just passed a new official plan within the last year or two. I think we're quite comfortable that our intensifications and zonings are appropriate for our city, but we would then still apply the social part of the new official plan to the entire area of the city.

We think it's an opportunity to really put into words some of the things that we think are important for our communities that we sort of take for granted and perhaps had never really characterized before in a plan. We think it's quite an interesting challenge, quite frankly.

Mrs Irene Mathyssen (Middlesex): I appreciate your coming here. I'd like to begin by saying that I must disagree. I don't think if we were to ask the people of North Dorchester or the councils of North Dorchester and Delaware whether they wanted that land in Westminster to go to the city of London that they would be all that enthusiastic.

Secondly, on this whole question about OMAF, under its mandate OMAF cannot comment on agricultural lands until they're in jeopardy.

The Chair: Irene, could you hold on for a second.
[Failure of sound system]

The Chair: Could you start over again?

Mrs Mathyssen: All right. Basically, I disagree that the councils of North Dorchester and Delaware would want that land to go into the city. Secondly, on this whole question about OMAF being quite content with the city being the stewards of agricultural land, the reality is that OMAF's mandate is such that it cannot comment upon the situation of agricultural land until it's in jeopardy.

But my questions are a little more specific. I'm quite pleased that the city has the financial wherewithal to meet the compensation needs of the county. That leads me to a question regarding servicing, particularly in South Winds

and in Canterbury Estates. They have very real and significant environmental needs there.

My question is, when will those pipes be in the ground? Obviously, that should be very soon. Secondly, this rural agricultural committee is very important. I wonder what your perception is of its mandate and how it will be constituted, how it will effect a voice for those people in rural areas to be annexed within the city of London council.

Mr Gosnell: The first part relates to the sewage problems at South Winds and Canterbury. I think this highlights the reason why we're here today, that you can't have urban development taking place outside a municipality on anything less than municipal infrastructure or you end up with the environmental nightmare that happened to the residents in South Winds development in Westminster.

I think the question is very appropriate. We intend to have that done as soon as possible. An environmental review will have to be done on that line to make sure it's put in the right place under the Ministry of the Environment guidelines and we would expect that to be within the next couple of years. But certainly, we would be interested in doing it as soon as we can. The province has already indicated, through the Ministry of the Environment, that funds would be made available to do that. We obviously have the capacity and we have the will to do it as quickly as possible.

I would just correct a couple of things. North Dorchester and Delaware signed off wanting to have these lands in their townships. That's on record. I don't know where the member gets the supposition that they would want it. They've already signed off and said that they did not want it. In fact, the ministry of agriculture—

Mrs Mathyssen: That wasn't my question.

Mr Gosnell: —was brought in not by the city of London but by the negotiations branch to have some input into the whole question of agricultural land. It was their view that whether the agricultural lands were part of a city official plan or a county official plan, measures can be put in place to protect those lands. That was, again, not the city's position, that was from the ministry of agriculture representatives at that meeting.

Finally, I think the most important question is, how can we make sure that we represent the agricultural and rural communities and the lands that will be brought into the new city? We've asked our interim task force on standing committees to look at that whole issue.

As well, Controller Burghardt and I are members of the county-city liaison committee and we see, through a number of our advisory and standing committees of the municipality and through that liaison committee, an opportunity to make sure that men and women are represented from these areas on very important committees as they relate to land use, the committee of adjustment and environmental advisory committees.

1100

So it is our intent to respect very much that we have a difference in the way land has been treated outside our boundary. It has a different flavour in terms of agriculture and rural, and we intend very much to listen and to work

with our friends in the county and the township around us to make sure that there's representation as it relates to those very important issues that you've outlined.

Mrs Mathysen: But this was to be a separate committee.

The Chair: Excuse me; time's up. I'm sorry, Irene. Mr Mills.

Mr Mills: A couple of points I'd like to make in closing: One is about the impact of annexation. Based on the city's current figures, because the city's portion is only part of the property tax bill, the impact of annexation is only \$23.40 per household, or 1.3% of the total tax bill.

Secondly, to a point that you made, your worship, any new urban development within the annexed area that could occur before the approval of the new official plan, one, would have to be on full services and, two, would require the approval of the Minister of Municipal Affairs.

The Chair: Okay. I'd like to thank you for appearing before this committee, your worship, and your colleagues.

Mr Gosnell: Thank you, Mr Chairman.

Mr Eddy: Mr Chairman, before the delegation leaves, a point of information: I think it's very important to correct the record. It's information, I assure you.

I wanted to clear up this point about the role of the township of Westminster in the previous council and to state that the officials, the elected and appointed officials of the town of Westminster, participated fully in the fact-finding process, number one. Number two, they participated fully in the boundaries negotiations process and Mr Taylor was present as the negotiator. Negotiations were not successfully concluded; there's no doubt about that.

Mr Gosnell: That's true. It would be a fair characterization.

Mr Eddy: Okay, and I know we're all in agreement.

Thirdly, I must recognize the role of the council and the appointed officials of the town of Westminster in subsequent meetings following the breakdown or the discontinuance of the boundaries negotiations process. Indeed, all of those people were on call to come to meetings organized by the county at any time, almost. So I just wanted to clear the record in that regard, and I know we're all—

The Chair: Okay. Irene wanted to make a comment to clear something up there, I believe, when I cut you off.

Mrs Mathysen: My concern was that I asked about the constitution and mandate of the agricultural committee and I didn't receive an answer about how they would be determined.

The Chair: Okay, fine.

Mr Gosnell: Mr Chairman, did you wish a little bit more clarification on that?

The Chair: Yes, just to cover that, since you didn't. So we've gone back and forth here to be fair to all sides.

Mr Gosnell: The province has put the onus on the city to indicate how we can represent agricultural and rural interests. We're still working with that with a standing

committee of our council to find every way that we can to involve them.

We've already passed a few things at our council to include representation on advisory committees, on the committee of adjustment, and we're trying to find the best vehicle, whether it's the county-city liaison committee or a new committee, to represent those interests. We're still working on that. We take it very seriously, and we want to make sure that whatever committee structure we come up with, it's not just for window dressing, but that it has some real impact on the decision-making in London.

The Chair: Okay, thank you for appearing before the committee.

Mrs Cunningham: Mr Chairman, while the other group is coming forward, could I just have a clarification on process today? I think we should do it now or we're going to miss an opportunity.

As you know, there's been some discussion around people not being able to be heard, and there's a great deal of controversy. Whether we like it or not, that's the case. It's nice to go along in a nice, neat way, but I have to answer my phone and deal with people. So I want to just have a brief discussion. Perhaps the government members can respond to this.

If there's going to be any change, and you know there was a window for another day if necessary, it's going to have to be done this morning. So I just want you, as the chairperson, or the government to let us know, because I am going to leave for about 10 minutes to go to a House leaders' meeting and I can tell you that I have not been satisfied as to the way people have been invited to appear before this committee. I want you to make some kind of ruling or have a discussion. I don't care what you do, but I need some direction.

The Chair: Perhaps we could meet just after the last witnesses are in. Having a discussion on extending the time frame for submissions made to this committee also could be looked at.

Mr Sutherland: If I can make a couple of comments, I think everyone's aware that the amount of time that's been allocated for witnesses and what have you is negotiated between the three House leaders. If there are to be specific changes to that, it needs to be discussed at the House leaders' level and should be done there.

I've had phone calls as well, and it needs to be put on the record that written submissions become part of the official record as well. Many people think the only way they are officially heard is by actually appearing, but any written submissions are a part of the official record. I'm certainly open to extending the time on the written submissions.

The Chair: That's important. The written submission either comes out of Hansard with the research staff and presented to us or it comes out of their briefs, so it's exactly the same.

Mrs Cunningham: If you'll just allow me 10 seconds, if I were to tell somebody he could have a written submission, I'd be laughed off the other end of my phone. That's the first thing. The second thing is that I am going

to the House leaders' meeting right now, so I will be taking my concern, and they can negotiate what they like. I will only be gone for 10 minutes, and I will be back, because I want to hear the submissions. But that's my role in my party, so you know my feelings on this.

Mr Eddy: There is a great deal of concern, and we've heard it in this caucus as well. I've taken the liberty of talking to the other members of the subcommittee, including Mrs Cunningham, Mr Sutherland and Ms Mathysen, on the matter, and we are all agreed that the way it has to be handled, if there's more time, is by the House leaders. I've advised my House leader that we're in some agreement that they deal with the matter and hopefully approve some more time.

Mr Sutherland: I'm sorry that people may not have the perception that a written presentation is just as important and is still part of the official record; it always has been for every committee and shall continue to be. So people need to be aware and take that seriously, that a written submission becomes part of the official record on this issue and is a chance for people to be heard who can't make a presentation in front of us orally.

Mrs Mathysen: I would like to table a written submission for the benefit of the committee members from the Citizens Against Annexation.

The Chair: I have a list I'm having the clerk make copies of, of all the calls I've received at my office, either as Chair or as a member of the government, and I will share that and the comments made with all members of the committee. I think there are approximately 12 people who have written to me or called me on the telephone, so I'll be tabling those and putting them on the record.

LONDON HOME BUILDERS' ASSOCIATION
LONDON DEVELOPMENT INSTITUTE
SPEYSIDE CORP

The Chair: We'll start with the next group. I'd like to welcome the London Home Builders' Association and the London area developers. We have a half-hour. I would like you to introduce yourselves for the purposes of Hansard, and your position also.

Mr Ric Knutson: My name is Ric Knutson, and I represent the London Development Institute.

Mr Michael Zebregts: I'm Mike Zebregts, the president of the London Home Builders' Association.

Mr Lars Bygden: I'm Lars Bygden, first vice-president of the London Home Builders' Association.

Mr Ben Lansink: My name is Ben Lansink, Speyside Corp. I own land in the town of Westminster.

The Chair: If you can start your presentation, and leave some time at the end for the three parties to ask questions.

Mr Zebregts: I'm Michael Zebregts, president of the London Home Builders' Association. First, we would like to express our sincere appreciation for giving LHBA the opportunity to express our support of the recommended annexation.

I represent over 200 member companies made up of home builders, subtrades, suppliers and professionals. Over the last 10 years, we have expressed our great concern to the city of London about the declining available serviced land in this area.

We at the London Home Builders' Association believe there are two fundamental principles to approaching the housing needs in our city: the right of all our citizens to decent, safe and appropriate housing, and the right of all Londoners and newcomers to our city to a reasonable opportunity to own their own homes.

We strongly believe that with the annexation that has been proposed in the report by Mr Brant, it is not only timely but essential for the provincial government to grant the proposed annexation as submitted.

At the present time, our city has vacant land available for approximately 10,000 to 11,000 housing units. We have built, on average in the last 10 years 2,688 units per year. We believe the land supply is at a critical low point. There is only a four-year supply, as submitted in the consultant's report to the city of London for the lot levy study. Let us not forget that any annexed land will take a minimum of four years before zoning and services are in place to start new housing units on any new annexed land.

1110

In most parts of Canada, land supply is one of the key elements of the affordability problem. The solution lies in ensuring an adequate and timely supply of serviced land.

Effective leadership does not come about accidentally. Rather, it is the result of deliberate actions and policies. We therefore respectfully ask this committee to recommend to the Legislature to proceed with the annexation report submitted by the Honourable Mr Cooke.

In the last piecemeal annexation a couple of years ago, one developer had control of the majority of the land annexed, thereby creating an unhealthy situation. With single-family housing starts rebounding at the present time, without sufficient annexation, this will dramatically increase land prices in the present city, in our opinion.

Some of our members were forced to start building outside the city boundaries at a greatly increased level to provide the housing which our customers were looking for.

Mr Bygden: The London Home Builders' Association members did not cause the growth in our area. We only serviced the levels that our customers demanded.

As you are well aware, all this building on the outskirts of the city of London has caused environmental problems. Septic tank failures are a common thing. It's getting so bad that the Ontario New Home Warranty Program is now demanding, in some instances, that builders of new homes provide a \$5,000 bond for septic tank failures for a period of two years, thereby causing housing costs to increase once again.

We all know that Canterbury Estates, a subdivision just on the outskirts of the present boundaries, already has major septic tank bed failures, with only 14 homes built in this 73-house subdivision. Let's not forget that presently, governments are spending millions of dollars to rectify

environmental problems in South Winds subdivision in the town of Westminster.

Proper and long-term planning would have avoided wasting taxpayer dollars. Unless annexation is allowed to proceed, the London Home Builders' Association believes that we are inviting more environmental problems.

Existing services, like police, fire protection, water and sewer services, just to mention a few, will be much easier to expand and less costly to provide than providing all these services in the surrounding areas. Proper annexation will enable the planners and politicians a much better way of planning the future of this whole area for a better environment. Our city needs sufficient land to properly plan long-term growth for the future generations in the years to come.

We at LHBA do not believe the municipalities outside the city of London have the financial capabilities to provide us with a reasonable alternative at an affordable cost.

One of our greatest concerns should be the environment. Building on unserviced land no matter what the soil conditions are has put a tremendous strain on our area. There are soil conditions that have worked well in the past and will work in the future, but as the demand grows to the levels of the past 10 years and we start to build full subdivisions on all kinds of poor soil conditions, the environmental problems will start to surface.

We at LHBA respectfully urge this committee to consider our opinions and give our customers in the future the affordable housing units they deserve.

Again, I would like to express our deep appreciation for providing us with this opportunity to voice our support of the annexation as submitted by the Honourable Mr Cooke.

Mr Knutson: While I share the views of the members from the LHBA, there are a number of additional issues I wish to raise on behalf of the LDI. I'll be concentrating on five general points and two specific issues on the draft legislation and amendments thereto.

The first point I wish to raise is affordable housing. Annexation will provide for a secure land supply for all land uses into the future. The result of that promotes healthy competition between developers and builders in reducing the speculation value of land prices, thereby keeping the cost down.

The city in the past has tried to ensure a healthy supply of approved land, resulting in London not having the land price fluctuations that many municipalities such as the GTA have experienced, particularly in the last boom. The net effect of this, measured statistically, is that 58% of London's total supply of housing in all forms is affordable under ministry guidelines as set out under section 36 of the Planning Act and the policy statement under section 3.

The second area I wish to speak to is the land supply issue, and elaborate on some of the points my colleagues from the LHBA have addressed.

The ministry has undoubtedly provided the committee and the Legislature with a vast array of statistics dealing with the uptake of land over the past number of years, the supply of land that's approved, draft approved and raw land. At an average utilization rate, we have a 2.1-year

supply of approved land and a 2.3-year supply of draft approved land. We are critically short.

The average time it will take to go through the planning exercise in the new area will be a minimum of four years. If we use the recent official plan in London as an example, it was enacted by council in 1989. That's after the study period, and that study period started approximately four years before that. That official plan is still in front of the Ontario Municipal Board, with the last remaining issues to be resolved. The total time frame for that planning exercise was about seven years. Subdivision approval after that planning policy work is done will require a further two to three years.

We are pleased that the draft legislation includes amendments to section 31, to allow adjacent land that is non-agricultural, based on the approvals, to come on stream in a quicker time frame. That may help alleviate a very serious supply problem if a 10-year or longer horizon would be required.

I'd like to speak to you about planning for a moment. My background as a developer is that I have a degree and am an experienced planner.

We've seen over the last number of years many government initiatives where we can no longer take a neighbourhood approach to planning but rather a more holistic approach based on ecosystem planning, and having concern and regard for a wide variety of environmental, social and other features, including transportation etc.

The area proposed to be annexed provides the city with an opportunity to develop that vision and to put the approvals in place in terms of where a variety of land uses should go.

It has a further benefit. Many of us have seen hotly contested debates before the Ontario Municipal Board, where an environmentally sensitive piece of land takes great time and expense to adjudicate. Having the planning put in place at the outset will avoid many of these. Developers will simply avoid it in terms of their acquisition schemes.

Further on the planning, related to section 30 of the bill, we are concerned that there's been a new layer being applied to the city of London, treating it as a special situation, in that special policies, regulations and ministerial control are being exercised. We believe there is sufficient control currently in the Planning Act, through provincial policies, through the issues in section 2 of the Planning Act and the general requirements of section 17 to put an official plan in place.

While we certainly understand that London is setting some level of precedent with the size of annexation, we caution greatly against significant time delays by greater intervention of Queen's Park. Further, London does have a very competent planning staff, and we've had situations in the past where those from Queen's Park, who may not be as familiar with local issues, thereby have a shield in advancing certain solutions that may be appropriate in the GTA or in other municipalities but may not be appropriate in local London circumstances.

You've heard at length about servicing. London does have the ability, both technically and financially, to extend

services to bring new lands on stream. The adjacent rural municipalities, as we've heard about their environmental problems, do not.

We've heard about the cost of retrofitting these areas that have environmental difficulties.

The net public cost of servicing is reduced when we have large centralized facilities as opposed to small remedial treatment plants to look after issues.

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One of the greatest benefits in an urbanizing municipality is the efficient use of land. We, the development industry, are in fact the stewards of that land, controlled obviously by official plans.

Due to land loss for septic tanks and typical rural development forms, we believe it's inappropriate to waste land, as it has been in the past.

For example, residential development can occur at a maximum of 1.3 units per acre, and medium-density forms of development cannot be accommodated when septic systems are the servicing scheme.

Full municipal services allow for densities up to a planning maximum of 60 units per acre, and single-family development will achieve up to eight units per acre. It's altogether an efficient service. Outside of sanitary sewage concerns, water would be available for fire protection, roads would be of sufficient quality to handle the traffic demands etc, and there's a long list.

The absence of services is now causing havoc with a number of industries that are currently not able to expand due to environmental problems. These are issues which will have to be remediated in the near future.

The last major point has to do with industrial land supply.

One of the reasons for London being a growth centre has been an adequate supply of industrial land.

The city has played a strong leadership role in the direct development and marketing of industrial land, resulting in low land costs, therefore an encouragement of new industries to locate in London.

We at the London Development Institute, and in fact the London Home Builders' Association, enthusiastically support the city's initiative in this.

The result of new industry through more jobs being created is a corollary need for housing and commercial and office space provided by developers and builders, their subtrades and suppliers. The net effect is more jobs through all sectors of London's economy.

These jobs, with a healthy economy, require far lower levels of social assistance and a further ability for the city to provide a higher level of service generally.

A specific comment I wish to make on a draft regulation is regarding section 18 of the draft bill with respect to development charges.

The city of London has in place a development charge bylaw. The town of Westminster has in place a development charge bylaw and it's currently under appeal to the Ontario Municipal Board. That hearing is scheduled for February 11 for two weeks. We believe a lot of expense can be avoided by trying to rationalize and favour urban

forms of development charges in favour of the city of London at the regulation stage.

We believe that the bill as it currently exists, where the city of London simply inherits the development charges bylaws of adjacent municipalities, will cause some level of chaos.

At the same time, we understand that no development will occur unless it's on full services. But there are a number of issues, and we will be going back through the whole issue of development charges between our industry and other parties involved in the city in the very near future.

We would ask that you consider changing that proposed regulation so that development charges be in accordance with the city of London standards and perhaps ask the city to add one section that deals with rural and farm-related development on which their bylaw is silent.

Thank you very much, Mr Chairman, for your patience. We'd be pleased to answer any questions you might have.

Mr Gary Carr (Oakville South): Thank you very much for your presentation.

The Chair: We have about three minutes each.

Mr Carr: Okay. I'll go very fast then.

If this proceeds and goes through, how many homes do you anticipate being built over what period of time? Could you give us a ballpark figure?

Mr Zebregts: We have built an average of 2,688 units per year, depending on the economy. If you take the last five years, the average has been 3,900 units.

Mr Carr: Yes, but knowing the economy and knowing your projections now last year, what do you anticipate coming up over the next couple of years, knowing the interest rates—

Mr Zebregts: Each year, 2,600 to 3,000.

Mr Carr: So it would be about the same as it has been. Even in spite of the fact that we've had some problems with the economy and so on, you still anticipate the same growth?

Mr Zebregts: Well, we went through a recession in the 1980s, which is part of this 10-year average, so we feel confident that we're still going to be needing those units.

Mr Carr: And if it doesn't go through, knowing the amounts you need and the land available, what do you see happening?

Mr Zebregts: Land prices will definitely increase, because there are only a few controls on the remaining land.

Mr Carr: How much land would you say would be available for homes?

Mr Zebregts: About four years' supply.

Mr Carr: Four years' supply regardless of the cost, based on the gross numbers, you anticipate.

Finally, with regard to the industrial base, knowing that regionally things are very different, you drive around the greater Toronto area and you can't go past an industrial area without seeing "For Lease," "For Sale." There's a tremendous glut on the market in the greater Toronto area. Knowing that situation, maybe you could fill us in on what is happening in London, specifically with regard to the

industrial, what you presently have. Looking at the two scenarios, if you stay where you are and if we go ahead with this bill, could you give us a little bit of an update—I'm running out of my three minutes—just on the industrial side of it? Again, how many years do we have if we don't go ahead, and what do you anticipate happening if we do?

Mr Knutson: Mr Chairman, I'll field that question. To the member: The company that I work directly for, Z Group, has a significant supply of light industrial space. Our vacancy rates are about 6%. The Toronto vacancy rates, I understand, are significantly in excess of that. The London light industrial market has not seen the vacancy rates that you've seen in the GTA. We've seen a continuation of building. In fact, our company has built two buildings during the last two years and one's currently under construction. We anticipate a continuation of that. With a number of potential announcements that we're aware of, there could be a significant shortage of industrial land very shortly.

Mrs Mathysen: A quick question: The question about the supply of industrial land has come up, and I would suggest that probably the most optimal use of industrial-commercial land is something London should strive for, and I'm wondering if you could comment. There is a head office, 3M, actually, in the city in London east that has quite extensive land holdings, a vast expanse of lawn. Is that the best and most optimal use of commercial and industrial land? Does London need to do better than that?

Mr Knutson: Through you, Mr Chairman, a very difficult question to answer. The industrial parks that have been developed by the city are developed at a very efficient level and at approximately 40% coverage. A head office of international exposure having a wide boulevard in front of it for aesthetic reasons to encourage an attractive approach I don't believe is a waste of land. If that were the situation generally, there would be a difficulty if we were wasting land. But typically the densities we develop on are 40% to 50% on full municipal services. On the other hand, in the Westminster industrial park those densities that have been achieved are in the order of 15% to 20%. The rest of that land is being taken up by septic systems.

Mr Winninger: I just have one question about development charges. Correct me if I'm wrong, but the last time I checked, London had the second-lowest development charges, apparently, of any municipality in Ontario. I think that has generated quite a bit of criticism, given the high cost of sewer and water hookups, roads, schools and so on. So some people are suggesting that in London, new home owners aren't paying their fair share of the increased cost to the municipality of all of those hookups and services. I wonder if you could comment on whether it's myth or reality.

Mr Knutson: Mr Chairman, if I might try to field that question, London has been involved in development charges through a variety of forms for in excess of 20 years, starting with the boundary roads and outlet sewers

bylaw passed in 1968 and actually going back to 1927 on the sewer rental charge bylaw that it enacted.

We believe we've kept our fund in reasonably healthy shape over that time, or at least over the last 10 years, to provide for the physical infrastructure. We have a pooled financing, where the municipality receives the money on each individual building permit, pools those funds and then pays developers for the oversizing that they provide. It has worked well. We've been able to install services, and I believe we have had a fair situation.

Our advantage is the history that we have with it. When development charges were reviewed by London council a year ago, they were frozen at that time, having regard to a deep recession that we're still experiencing. It was also known full well at that time that development charges were going to be reviewed as annexation proceeded, because there are costs that have to be accounted for, and we have no difficulty, as an industry, paying our fair share for the physical development and the infrastructure needed to accommodate that development.

1130

Mr Bernard Grandmaitre (Ottawa East): I understand that the serviced land supply of any municipality is critical to make it a viable community. But I also understand that of the 64,000 acres, only 7% of those lands are presently developable. Don't you think that 7% is very low, and that you're depending on a new official plan to create more developable land, commercial and industrial?

Mr Knutson: The 7% are those lands that are currently designated for non-agricultural purposes. As London grows over time, there will certainly be increased demand for land over that 7%. What this gives us an opportunity to do is to develop a vision for the future, to understand those lands which should in fact be developed for urban purposes and those which should not. It gives us opportunities to do planning on a watershed basis and deal with environmental issues far more fully than has been done in the past. The 7% currently designated in official plans I think is misleading. London will have an ongoing need for land as long as it's a growth centre, and that will be able to be accommodated and staged and dealt with through a vision that's created through the new official plan which has been mandated by Bill 75.

Mr Grandmaitre: If you think that the 7% is misleading, then the Ministry of Municipal Affairs is misleading us. Is that what you're telling me?

Mr Knutson: No, sir. What I'm suggesting to you is that 7% of the 64,000 acres is now currently designated for non-agricultural uses. The remainder, the 93%, is likely in some open space or agricultural designation. With the new official plan, there will be a vision into the future which will apply to those agricultural lands, and some of them will be redesignated.

On the issue of agricultural lands, although a fairly small percentage of the 64,000 acres has been owned by members of our institute for many years, we are some of the largest agricultural producers in the county of Middlesex. We've continued to do that for many years and will continue to until those are needed for urban land uses.

The Chair: I'd like to thank you, gentlemen, for appearing before this committee. What we have is a vote coming up at 12 o'clock, and I want to make sure that the other party has an equivalent amount of time. Yes, sir?

Mr Ben Lansink: I haven't spoken yet, sir. We still have another 10 minutes.

The Chair: Oh, you haven't—

Mr Lansink: No, I haven't.

The Chair: I'm sorry, but we are going to have to go with half an hour on each group.

Mr Lansink: We started at 10 after and my paper will take five minutes. I'm on the agenda.

The Chair: I didn't realize that there were—we won't have time for any questions after. Just go on with your short brief there.

Mr Lansink: It will take about five minutes.

The Chair: Okay. I just took it that everybody had spoken because that's when we got into the questions.

Mrs Cunningham: In fairness, the half-hour isn't up, because I know when I left. On the other hand, they've come a long way and we've asked them to be here, so I don't think any of us are going to be arguing. If we have to come back after the vote, then so be it.

The Chair: Okay, if the committee is agreeable to come back after the vote then go ahead, sir.

Mrs Cunningham: I never used my five minutes.

The Chair: I just took it that all people had presented. I was out of the room for about five minutes.

Mr Lansink: My name is Ben Lansink.

It's time to end the boundary adjustment debate and adopt the Brant report and Bill 75. Growth in the metropolitan London area will occur with or without annexation. By arguing against boundary adjustment, environmentalists and others are advocating the pollution of our environment.

I am president of Speyside Corp, the owner of 233 acres located in the town of Westminster. Our land is situated on Colonel Talbot Road, between the South Winds subdivision and the city of London. In addition, my family's corporation has an interest in an 18-acre vacant development parcel situated in the hamlet of Lambeth.

I am strongly in favour of Bill 75.

A Ministry of Treasury and Economics demographic bulletin dated July 1989 suggests Ontario is projected to grow from 9.1 million as of June 1986 to 12.8 million by June 2011. A paper prepared for my company, Speyside Corp, by Strategic Projections Inc of Oakville estimates that Ontario will grow by 2.2 million in the 1990s, double the 1980s pace. Metropolitan London, in other words, Middlesex county, is expected to increase its population by more than 100,000 persons between 1991 and 2001, driven in part by an industrial base that favours job creation and the attractiveness of its relative income and house price position within the province.

South Winds Village is a recently developed subdivision of about 165 upscale homes in the \$250,000 general value range. Local wells supply the subdivision with water

that is treated, at this time, to remove iron. Sanitary sewage disposal is individual-lot septic tank leaching and sub-surface disposal. The area has encountered a major problem of seepage to basements and surface ponding.

Assessments by the Middlesex County Health Unit and the Ministry of the Environment have resulted in both agencies supporting a program for remedial measures. South Winds has been declared a public health hazard. The solution will cost Ontario taxpayers \$3.6 million and local taxpayers \$1.6 million, for a total of \$5.2 million. If you include interest at 10%, based on a 20-year amortization, the total cost is about \$11.8 million.

Westminster's solution is a gravity sanitary sewage collection system and local sewage treatment plant, with discharge of the treated effluent to Dingman Creek. Additional future development needs will not be met to any significant degree by the proposed limited-capacity plant. In other words, much of the cost is wasted unless the plant can be readily upgraded. The problem would not have occurred had South Winds been situated within the boundaries of the city of London.

Private sewage is a pollutant and is probably the largest contaminant that is discharged into the ground. The cumulative effect of clustering septic systems, each with its tile bed emitting waste in a small-lot subdivision, has proven too much for soils to bear. In the short term, septic system failures mean public health hazards from exposure to sewage and its attendant diseases. In the longer term, drinking water is at risk of contamination.

The town of Westminster does not have the financial resources to create the infrastructure necessary for development. The city of London does.

Environmentalists and other groups show an uncanny willingness to accept the environmental damage now being wreaked upon the aquifer systems surrounding the greater London area by arguing against boundary adjustment. It is difficult for me to understand their agenda. The continued use and aging of septic and leaching beds will ultimately cause major health problems.

Opponents argue against destroying farm land, but crop and food production are more efficient now. Farm income is at all-time low because Canada can produce more food than we can consume. The food market is now global in scale and our international competitors are similarly more efficient. It takes fewer farmers to feed more city folk every day.

Is the land within the proposed boundary adjustment Canada's best farm land? The land has been fragmented into many smaller parcels over the years. Use of large, complex farm equipment is prevalent. It is not economically feasible to farm on small parcels. With minor exceptions, farms that raise animals for milk, eggs or slaughter are not operating in the areas close to the city.

Much of the annexed land is traversed by ravines, both branches of the Thames River, Dingman Creek and Medway Creek and their tributaries. Large areas adjacent to these waterways are not farmed and will remain in their present natural state once development occurs. Protection is afforded through agencies such as the Upper Thames River Conservation Authority. Large portions of the land

to be annexed is used for Fanshawe Lake, London airport and the hamlets of Lambeth and Hyde Park. Substantial industrial areas are in the vicinity of Hyde Park and the southerly boundary of the city, White Oaks Road and Highway 135. Some land is recreational, such as golf courses. Yes, there will be some excellent farm land lost, but on a percentage basis it is quite insignificant.

It has been suggested that London for the last 30 years has wasted land and should not be rewarded with future annexation. Containing the city within its present boundaries will damage its society, its economy and the environment. Land scarcity will occur and the value of real estate will increase dramatically. Affordability will decrease and the need for subsidized housing will go up.

If annexation does not occur, people will be forced to live in outlying communities that would ultimately take up more land than what is proposed by Brant or Bill 75. This is already evident in the hamlets of Lambeth, Dorchester, Kilworth, Komoka, Arva, Nilestown and Melrose.

To conclude, London is financially sound, well managed, responsive and accountable to the electorate. The city has the assessment base and financial strength to create the necessary infrastructure for future expansion. Economies of scale to ensure the lowest possible cost are available to the city.

The Chair: Thank you. I'm sorry you were overlooked at that time.

Mr Lansink: That's quite all right.

The Chair: Thank you for appearing before the committee.

1140

LONDON PUBLIC UTILITIES COMMISSION MUNICIPAL ELECTRIC ASSOCIATION

The Chair: The next group we will hear from is the London Public Utilities Commission. Would you come forward, please. I'd like to welcome you to the standing committee on finance and economic affairs.

If the bell goes for a vote around five to 12 or 12 o'clock, we'll come back for the remaining time to ask questions after. We might wind up stopping in the middle of your presentation. It's like being at school: The bell rings and we have to go up there.

Mr George Avola: I understand your predicament, Mr Chair.

The Chair: That's why I've been trying to move the groups along.

Mr Avola: We may pick it up afterwards then?

The Chair: Yes. Would you introduce yourselves and give your positions, for the purposes of Hansard.

Mr Avola: With me are Mr Al Gleeson, assistant general manager of the London Public Utilities Commission; Alex Dobronyi, general manager; Maurice Chapman, commissioner; and Tony Jennings, the executive director of MEA, the Municipal Electric Association of Ontario.

I've kept my presentation a little shorter so that Mr Jennings, when I'm finished, can put in the five minutes we'd like from his organization.

I appreciate the opportunity to appear at these hearings and provide input on behalf of the London Public Utilities Commission.

There are two separate issues in Bill 75: the original and main issue of London's annexation, and the briefly considered issue of the status of the London PUC.

The passage of Bill 75 as proposed will eliminate the London Public Utilities Commission. The responsibility for water, parks and recreation will go to municipal council, leaving a hydro-electric commission of undetermined status.

While claims have been made that the dissolution of the PUC will result in better planning and the saving of millions of dollars, none of these claims has been verified. The fact is that just as annexation costs money, the dissolution of the PUC must cost money. These costs might be justified if the result were going to mean a better service delivery system to the community, and that point has not been proven at all.

In our opinion, the dissolution of the London PUC, with the separation of electricity and water, as proposed in Bill 75, is a step backwards, especially if such a move is looked upon as setting a model precedent for other PUCs in the province. The PUC issue requires far more in-depth consideration in order for an intelligent, informed decision to be made.

Common sense would have determined that the annexation recommendations be implemented before the status of the PUC was considered. Doing both things together against a very tight deadline has prevented thoughtful analysis. People would not deal with the PUC issue for fear that the annexation would be scuttled. This is evident in our own city council, where it was a 10-9 vote in favour.

That is our main quarrel with the process. Much has been made about the fact that the provincial arbitrator, John Brant, arrived at his recommendations without consulting the PUC or its ratepayers. These protests are valid. Mr Brant, while he lives in London and is the owner of a local travel agency, does not have the experience, background or knowledge to make such a far-reaching recommendation as the dissolution of the London PUC without appropriate consultation of the other bodies affected.

Obviously, if the boundary adjustment issue had been settled by the London politicians, as it should have been, then the status of the London PUC would not have been an issue at all. It would never have arisen.

The status of the London PUC was never discussed during the 11-year boundary adjustment dispute—never. Nor was it brought to the table by the city of London during the negotiations or at the hearings conducted by Mr Brant. The PUC issue came into the annexation process, in some puzzling fashion, in the final 60 days. This was at a time when the city and the PUC were working together, through a unanimously approved joint task force, to achieve a better delivery of services. We had already taken these steps through a mutually agreed committee, with council and the PUC, to go forward. Neither the PUC nor the task force were alerted or consulted by Mr Brant regarding the future of the status of the PUC.

The arbitrator's role in this instance approached a judicial form of decision-making, in view of the acknowledged intention of the minister to implement whatever decisions were put forward by the arbitrator.

Reaction right across the province was swift and predictable. People objected not only to what was done but to how it was done. This autocratic approach not only disengaged the PUC and its ratepayers from the process but averted meaningful, factual input. It would have been far more productive if those embroiled in the issue had been able to direct themselves towards setting up a utility delivery system that would meet the needs of its customers and be in tune with today's market.

The implementation of Bill 75 as proposed will meet neither of these criteria. As it applies in the utility business, Bill 75 is out of tune with the direction of forward-looking businesses. Successful businesses in the 1990s are moving away from centralization and bigness. They are decentralizing and layering bureaucracy in order to become more flexible and more responsive to customers' needs and expectations. Businesses today, in order to survive, must put the customer first. Bill 75 is a step backwards because it ignores the customer. In fact, the arbitrator's report never once even mentions the customer.

The London PUC wants what is best for the customer. We believe there is a better way of meeting their needs than what will result from the implementation of Bill 75. The question now is, will anybody listen? We present our recommendations to you in the hope that goodwill and common sense will prevail.

We put forward our belief that an independent public utility responsible for electricity and water, under a separately elected commission, will provide the optimum utility servicing to the customer. Keeping water and electricity together as a PUC will eliminate many of the operational and human resource problems now surfacing during the city-PUC transition meetings. Water and electricity are a natural fit, because they are purchased by the same customer and they share the same customers and operational support systems, thereby creating great economy of service to the customer. There's no duplication.

These are strong arguments in support of the public utilities. Here are additional factors:

Water and electricity are essentially businesses, which differ significantly from other services provided by the municipality such as roads or solid waste management. Specific expertise and enterprise are required to manage water and electricity, especially in today's environment. If the PUC is dissolved, the water enterprise will merely be another function among a multitude of others with which the municipality must contend.

There's a significant difference between serving a taxpayer and serving a utility customer. The utility customer pays for a specific product through user fees and has a set of needs and expectations that the utility must satisfy continually. The utility is a business enterprise and is measured by the customer at every point of contact. The utility organization must be aligned to meet the needs of the individual customer. The taxpayer does not pay a fee for service

and is not regarded as a customer. As a result, the municipality is not set up as a service organization.

1150

Separate bodies that are responsible for their own budgets are better able to account for their funding, services and projected costs. This statement is argumentative to those who believe that special service bodies should be eliminated, but we are talking practical business sense here, not espousing an academic philosophy.

In Metropolitan Toronto in 1991, money was diverted from environmental services revenue to cover costs in other areas of municipal services. This was an attempt by politicians to keep tax increases to a minimum and yet provide a "balanced" budget. Needless to say, such a move was met with great protests.

There is nothing to prevent future municipal councils in London from diverting water revenues to other municipal purposes, and this is one of our main concerns. Pressure to do so will build as financial constraints escalate the war between the hard services, such as water, and the multitude of soft services that councils must finance.

A separate utility must operate from its revenue base. It is directly accountable to the ratepayers and therefore can operate far more effectively. You heard our mayor say earlier today that our rates are among the most favourable in all of Ontario, and that's only by good management, not by politicians.

This initiative calls for utilities, primarily water purveyors, to be established independent of other budget centres—

The Chair: You are not knocking the chair, are you?

Mr Avola: Hey, listen, you've got to wear the hat.

The Chair: Carry on. Sorry.

Mr Norm Jamison (Norfolk): Try wearing it.

Mr Avola: I have, probably longer than you, sir.

The dissolution of the PUC is contrary to the current provincial initiative through the Ministry of Natural Resources, which is entitled *Toward a Water Efficient Ontario*. This initiative calls for utilities, primarily water purveyors, to be established independent of other centres.

Two principles established in the initiative, namely full-cost pricing and dedicated funding—water funding used only for water purposes—are best guaranteed through an independent utility.

One could argue that it could be more productive to incorporate waste water issues under a PUC than to transfer water responsibilities to a municipality. This provincial initiative has been under review for some time, whereas the decision to dissolve the PUC was made in simply 60 days.

Let's take a longer look at water management and the role of local utilities. An electric and water utility in London is the best structure for providing quality customer service. Mr Brant's rationale for transferring water to the city is that water and sewage are a single subject in both the planning and provisions of an area's infrastructure and cannot be managed independently. He ignores the fact that they have been operated independently, and successfully, for years by the London PUC on the water end. He might

be right from a technical perspective. However, he is wrong from a customer perspective.

The question is: Who do we serve, the customer or the engineering system? You must understand that all the customer services for both water and electricity will continue to be provided by the customer services department at the hydro-electric commission. Mr Brant's approach joins the operational end and disjoins the customer service end.

Currently, through cooperative integration, the customer service, electric and water departments of the London PUC deliver quality utility services at rates and delivery costs that are among the best in the province.

To tear apart and duplicate the existing customer and operational support systems will only add to the delivery costs for water and electricity. It can only add to the costs.

On that one issue, we had a directive from board of control in our last commission meeting instructing us to raise the water rates to the consumer in London a little more than we normally would to cover some additional cost of piping.

It's easier to join pipes than to coordinate service to the customer, which is ongoing and constant. Mr Brant's recommendation to separate water and electricity creates confusion for the customer, especially given the annexation and a host of problems for staff.

In summary, including the dismantling of the PUC in the annexation issue has proven to be the wrong approach. It introduced an issue requiring consultation and analysis into an already confrontational area. Whatever chance existed for reasonable dialogue was pre-empted by the arbitration process which was not inclusive, but in fact exclusive.

Something has gone terribly wrong. A successful business employing some 540 full-time people is about to be dismantled and restructured without one single piece of evidence on how that will impact on delivery costs and the quality of customer service.

The Chair: I'm going to have to call for a recess, in time for the vote. There are five minutes until the vote and maybe another five minutes on the vote, so we should be back between 5 and 10 after. Okay? This committee is recessed until a little after 12.

The committee recessed at 1158 and resumed at 1224.

The Chair: We'll bring this committee back to order. Would you like to carry on where you left off.

Mr Avola: In summary, including the dismantling of the PUC in the annexation issue has proven to be the wrong approach. It introduced an issue requiring consultation and analysis into an already confrontational arena. Whatever chance existed for reasonable dialogue was pre-empted by the arbitration process, which was not inclusive but exclusive.

Something has gone terribly wrong. A successful business employing some 540 full-time people is about to be dismantled and restructured without one single piece of evidence on how that will impact on delivery costs and the quality of customer service.

We concede that it's too late in the game to start all over. With regret, we accept the transfer of parks and rec-

reation to the city. But it's not too late to pause and to do what is right for the electricity and water customers. Moreover, this can be done without obstructing the transition process. In fact, removing water-related issues will facilitate a smooth transition.

The committee should know that notwithstanding the good efforts of both administrations, the transition of most of the functions will not take place before January 1, 1993. Those transitions cannot be handled until well into 1993, and possibly even beyond.

Leaving water and electricity together will eliminate a host of problems. It will alleviate employee problems, both union and non-union, and minimize customer confusion. Finally, it will send a message to other utilities across the province who still feel threatened that reason can prevail and that cooperation and consultation can work.

We request the members of this committee to support our sensible position by recommending the appropriate amendments:

(a) That a public utilities commission responsible for electricity and water be established (subsection 21(1)); and

(b) That the public utilities commission shall consist of five persons, of whom the head of council shall be one by virtue of his or her office and others shall be elected by general vote at the elections held under the Municipal Elections Act (clause 21(3)(b)); or

The question of elected versus appointed commission be put to the electors for decision by way of plebiscite during the 1994 municipal elections.

With that, I will pass it over to our executive director of the MEA at this point.

Mr I. H. Jennings: We appreciate the opportunity to be here. I'm here for our chairman, who's elected by the 312 municipal utilities that MEA serves. Doug McCaig is an elected commissioner in Fort Frances Public Utilities Commission. We also have an elected president, who currently is Keith Matthews, the general manager of Brampton Hydro-Electric Commission, which has an appointed commission.

As you might expect from that, the MEA is not taking a position consciously for or against PUC versus HEC, for or against the elected or appointed nature of commissions, but we have responded to concerns expressed by our member utilities across the province about the process, and you have a brief in front of you.

Just a quick word. The Municipal Electric Association, as I mentioned, serves 312 municipal electric utilities, about half of which also provide water and/or other services. That's not our area of responsibility. Most of MEA's activities are focused on cooperative action to reduce costs or improve services within the member utilities. But on issues where there is a collective concern, we also try and serve as the voice. The spokesman would normally be here. Let me, if I may, draw your attention to just a couple of points in the brief you have, towards the bottom of page 2 and the top of page 3. As I've said, we've not taken a position except on the process.

1230

Bill 75, as it's currently worded, would override the local ratepayers' past choice of how the utility is organized and their right to elect a local commission.

As recently as the last municipal election, such issues were on the ballot in two municipalities. The Public Utilities Act processes are there and can serve this purpose. As it says at the top of page 3, it is important to recall that the restructuring of the utilities commission was not an issue before the arbitrator. It's our understanding that the public utilities commission provided input at the staff level simply to indicate that they were capable of handling the service in the expanded area.

At the bottom of page 3, I think you'll see several things which Mr Avola has already referred to, so I won't run through them, but there have been several indications that the citizens strongly support maintaining the status quo. For instance, at the open meeting held with the London city council, in the over two hours of discussion of the PUC, it's my understanding that virtually all of the 30 presenters spoke in favour of the PUC. Only one person questioned the process; nobody spoke against it. The impression our board of directors has is that the citizens who are interested in the issue have expressed a strong interest in maintaining the current arrangement.

We've made some recommendations. I won't go through them in detail. They or other wording would suggest simply amending part II of the bill to allow the PUC to carry on. We have not spoken about the annexation issue at all. We've also offered an alternative, which relates to what Mr Avola has just said to you. If in fact you don't believe that the citizens have had an adequate opportunity, or that the expressions they've had in the petitions and so forth are not adequate, then there is the possibility of a further referendum.

Mr Avola: If I may add just one thing, in an official poll that a pollster was hired to do, the percentage was astounding: 79% of the people polled favoured an elected commission and favoured that the PUC be left where it is and not be taken over by city council.

The Chair: Looking at your amendments at the back—just for some clarification, I don't know—in London would that be elected by wards or at large?

Mr Avola: At large.

The Chair: Okay, fine.

Mr Winner, I thought you had a question there.

Mr Winner: No.

Mr Eddy: Not on this issue he doesn't. He's afraid of this one. He knows he's wrong.

I calmly approach this, of course, but I want you gentlemen to know and appreciate that what the people want has nothing to do with this bill whatsoever. You better realize that right now. What the citizens want has nothing to do with this process.

I would like to ask, because I cannot find out, how did this issue of the PUC become part of this bill? PUC was never mentioned by any person at any time, elected or appointed, during the fact-finding process, the boundaries and negotiations process and all the negotiations after-

wards. I don't know, but it's my understanding it never came up in any of the arbitrator's hearings. Perhaps it did. But enlighten me.

The title is wrong. The title of this bill does not recognize that the PUC is involved. If there's one thing a local council is capable of—because we've heard of many things that the city of London is equipped and capable of doing—it should be dealing with an internal city of London position. Could you tell me, did you ask for this to be included in the bill? Where did it come from?

Mr Avola: The date that we found out that the PUC was included in this annexation paper was the day the minister came to London and read the report to us, to all interested parties of the annexation process, and in that there was a paragraph that said "and the PUC." That was our first knowledge the PUC had any involvement in this whatsoever.

Mr Eddy: So it wasn't part of the arbitrator's hearings, it wasn't in the arbitrator's terms of reference or mandate or anything like that.

Mr Avola: Nor one interview nor one question.

Mr Eddy: Do you believe it's time for the New Democratic Party to change its name to the New Dictatorial Party?

Mr Sutherland: Excuse me, Mr Chair—

Mr Eddy: That's what it is.

Mr Sutherland: Let's be quite clear that all governments have to make decisions. I can cite examples from when the Liberals were in, from when the Tories were in, when people didn't feel—

Mr Eddy: There were many mistakes made and that's why we're not the government.

The Chair: We have questions of the witnesses here, not the performance of past governments or this government.

Mr Avola: Thank you. I agree with that.

The Chair: Just to clarify for me, what is the date that you first found out about this? Was this in April or was that in September?

Mr Avola: April 3.

The Chair: Okay, fine. You know, the two dates when the minister was down there for the hearings—

Mr Avola: Which was the announcement date of the decision.

The Chair: So you had a chance at the end of September to make a submission to the minister at that time in London?

Mr Avola: This past September?

The Chair: Yes.

Mr Avola: Yes.

The Chair: I was a little confused with the questions that Mr Eddy was asking there.

Mr Eddy: We weren't invited.

Mr Avola: No. It was more or less a one-man commission. I believe Mrs Cunningham was there.

Mr Sutherland: And Mrs Mathyssen, Mrs Boyd and Mr Winninger.

Mr Avola: Yes. But the minister had mentioned it was a done deal, as far as he was concerned.

The Chair: Mrs Cunningham, would you carry on?

Mrs Cunningham: Yes. It's interesting, Mr Chairman, our former mayor of London here sitting so nice and calmly in his new CEO position, as opposed to our former, illustrious CEO from Middlesex. You can see the stress it does take when one becomes an elected official. Having said that, we get along very well.

I have a couple of questions, because I think I'm on record as saying I was absolutely shocked to see that this became part of the process. It was a very grey area, I felt, in the mandate, if it existed at all, and I think it's really shed a negative light on what could have been a very much more positive end result with this, because it was the biggest issue in discussion for a number of months, and now some of the concerns have been discussed, so that at least employees have a feeling that they know what may happen.

I know one of the reasons the public is very concerned about an arbitration process—and we talked about the land before—would be this one, and that's the dismantling of an elected body. So I want you to speak to that and talk about it in the future. I don't know what we can do about the present, but we are going through clause-by-clause and I do thank the Municipal Electric Association for its amendments, which I hope will be taken seriously.

The second one is on the whole process of this public utilities commission affair and I'd like to ask you what you think the best organization would be, either for London or anywhere, because a lot of people are confused about who should be responsible for water, electricity and, in our case, parks and recreation. I'm sure you've given it some thought.

Mr Avola: As an elected person, I've been sort of on both sides. I was on city council for many years. I was on city council when we first started talking about this annexation. This next annexation that was to take place some time in the 1980s was to be sufficient to provide land to the city of London to the year 2020. Mr Gleeson there was mayor at the time, as a matter of fact. At that time it was determined that we would ask for 15,000 acres, and that would do us to the year 2020. We could in fact be argued down to 7,500 acres.

As it's turned out, and I don't know how, some 73,000 acres have been turned over to the city of London for annexation purposes. That should last them to the year 2200 and something, I would guess. But that's neither here nor there.

As far as operating the public utilities commission, the water is concerned, let me give you a brief example of what happens now with electric and water when we are budgeting. Our budgets are set, they're brought before us,

we go over each item and we try to be very responsible in setting budgets. They're pretty well determined by Ontario Hydro and the ministry here as to what your water rates or electric rates are going to be. We will then budget for that year. At the end of an operating year, if there is money left over—and oftentimes there is—in either electric or water or both, that money is reduced from the next rates that are given to us by Ontario Hydro or the ministry for the water. So we reduce the rate by whatever happens to be left in that budget. That will never, ever happen again if the water's taken over by city council.

As I said earlier, in our last meeting of the public utilities commission, the mayor came in with a directive from board of control asking us to increase the water rates an extraordinary amount to look after the pipes, the new water connection. The mayor's been on the public utilities commission for seven years because he's been mayor for seven years. He should know that the business end of this, which is run by these people, the administrators, had looked into this many years ago and they had made provisions for a slow increase in rates to look after the expansion of the water required for the city of London and the annexation.

We have in fact in excess of a \$14-million reserve to look after these costs. Right away the politicians in council want to raise rates. I'm going to tell you, every percentage it goes up, that just keeps multiplying, Mr Chairman, as you well know. This is happening, and going to happen, with electric, though electric isn't really affected, because you're going to have a hydro-electric commission. It's going to be stripped down so much, but you still have over 300 employees who will remain with the hydro-electric commission.

They say there's not going to be duplication of services. That's not possible, not to have duplication of services. So it's going to cost us more to give electric to the users in the city of London. Down the road five years, I'm going to tell you, we won't be able to sit before you and brag about the reasonable cost of providing water and electric to the citizens of the city of London if you separate water and electricity. It's just foolishness to even think about it that way. It's like saying, "I've got to go get a tooth out, but I'm going to go to my general practitioner."

The Chair: I'd like to thank you for appearing before this committee. The clock has run out. I think actually we gave overtime because of the break we had there.

Mr Avola: On behalf of the MEA and on behalf of the public utilities commission, I wish to thank you and all of your members, Mr Chairman. You've been very fair with us and very kind.

The Chair: Thank you for appearing.

This committee will be recessed until 3:30 this afternoon.

The committee recessed at 1243.

AFTERNOON SITTING

The committee resumed at 1551.

The Chair: I call to order the standing committee on finance and economic affairs, on Bill 75, An Act respecting the Annexations to the City of London and to certain municipalities in the County of Middlesex.

Mr Sutherland: Just a point: I think it's important to let people know at this time that the House leaders did meet this morning. What they decided is that while we originally were going to have two days of clause-by-clause vote, we'll only be having one day so we can have one more day of hearings from interested parties. Is that your understanding?

The Chair: That's my understanding, and I'm glad you brought that up at the beginning. The other thing is that we agree that written submissions handed in until next Friday will also be on the record; it is extended from this Friday until the following Friday. Agreed? Okay, fine.

MIDDLESEX COUNTY BOARD OF EDUCATION
AND TEACHER AFFILIATES

The Chair: The next group we have is the Middlesex County Board of Education and the teacher affiliates, if you could start off.

Ms Donna McIlmoyle: My name is Donna McIlmoyle and I am the chairperson of the Middlesex County Board of Education. With me are Mr Ted Anderson, the director of the Middlesex County Board of Education; Ruth Jackson from the Middlesex Women Teachers' Association, who is representing the three affiliates; and Jack Sifton, the president of Ontario Secondary School Secondary Teachers' Federation for Middlesex, and chief negotiator for the teachers.

The Middlesex County Board of Education wishes to extend sincere appreciation for the opportunity to submit its position on the London-Middlesex Act and its impact on our education system. We hope to represent the interests of a number of stakeholders in our county education system, many of whom made impressive presentations in support of the system during the arbitration hearings held at numerous locations throughout the county.

For the benefit of the standing committee members who may not be familiar with the county's school system, we would like to provide some detail. The Middlesex County Board of Education provides education to over 11,000 elementary and secondary students, as well as adult students, in a number of sites throughout the county. These services are provided in 27 elementary, five secondary and five special-program schools as well as an adult education centre.

Students come to these community schools from both small urban and rural settings. As a result, the schools have a noteworthy community atmosphere that is valued by county residents. In many situations, these schools are central to community activities.

In 1969, the province joined many small school boards to form the Middlesex County Board of Education. Our system has grown since then to the point where, within the

province, we are an average-sized board with an average assessment base. The board's staff and its ratepayers are justifiably proud of the county education system that has evolved and are eager to maintain its viability.

Excessive adjustments to municipal boundaries will diminish the capacity of the board to continue to provide quality programs. Therefore, trustee concerns as they relate to the institution of education centre around such issues as assessment, school size and availability of community schools.

Indiscriminate adjustments of boundaries have the potential to reduce dramatically the commercial-industrial assessment base of the board, to take away some schools and to reduce the enrolment of other schools, making their operation educationally and economically difficult.

The lines established in this legislation do just this, so we must clearly indicate that we are not insignificant in this whole issue. While the Board of Education for the City of London has over four times as many students and staff, it is not operated in isolation from the Middlesex County Board of Education.

For instance, in areas where the county board of education is unable to mount special education and French first-language programs due to insufficient enrolment, the Middlesex county board has been able to purchase programming from the Board of Education for the City of London.

Furthermore, a number of cooperative projects have been undertaken by the boards over recent years. For the past year, the two boards, along with the London and Middlesex County Roman Catholic Separate School Board, have initiated numerous detailed studies of areas where cooperative services can enhance the delivery of service within the systems while reducing the cost to local ratepayers. Both boards recognize that this matter is not one of their own making, but is brought on by municipal action. Neither board has had any strong desire to alter its current jurisdiction.

Both boards were pleased that the Minister of Education agreed to adopt one of the arbitrators' recommendations, that being that the two boards be left to reach a local agreement on the educational implication of annexation.

At the hearings held in London on September 24 and 25, 1992, the Minister of Municipal Affairs admonished the Middlesex county board for its interpretation of his very important open letter that was published in the London Free Press regarding the impact of legislation on boards of education. He indicated that while his letter stated that there will be no changes to the two boards as a result of the legislation itself, the two boards should be meeting in order to resolve educational boundaries.

A review of the ministry amendments to Bill 75, finance, page 11, confirms that the legislation has no direct application to educational jurisdictions, "Given that school board boundaries are not changing by virtue of this act."

The boards have also been criticized for looking for a solution out of Toronto, when that has not been the case at

all. What the boards have been looking for is some guidance or guidelines out of the ministries that would help us get on with the local solution. Asking for such guidelines and guidance should in no way be interpreted as trying to hand over the decision to provincial officials so that the boards can criticize any decision after the fact.

On the surface, it may sound easy for such negotiations to take place and an amicable solution be reached forthwith, but it must be recognized that local municipal discussions on annexation have taken place for 10 years, and intensively within the past four, with no local resolution.

The county board appreciates the dilemma its county officials have faced, since it is apparent that when you enter such negotiations that you do not do so to win or lose but to determine just how much you are going to lose.

We would like to outline some of the difficulties in coming to a local agreement. First, we like what we have, and ratepayers and the parent community have solidly supported this board in its efforts to maintain its viability in this process. Where there is a lack of support for our board's position, it is clearly understood by the board as to the circumstances for this position. Furthermore, there is confidence that this lack of support is confined largely to one area of the county.

Any people—educators, politicians—who tour our schools are impressed by the quality of programs and services offered to students. While these schools may not have as extensive program offerings as in larger urban centres, they have received program recognition at both the regional and provincial levels. Only those familiar with the funding limitations on rural boards of education truly appreciate the quality of programs offered while responsible financial limitations are maintained.

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Second, we realize that to accept the unusual provision of school boundary legislation currently represented by the new Bill 20 under the Education Act has serious implications for our board. Specifically, if we were to concede the area to be annexed as outlined in the legislation, we would be giving up educational tax revenues from the most assessment-rich commercial and industrial land in our county. Coupled with the loss of residential revenue in the affected areas, the very viability of our board is threatened.

Those who suggest that educational grants will make up the difference because we become a poorer board would be wise to understand that such grants will not cover the over-ceiling expenditures of the board. We trust that you are aware that almost every board in the province is operating over Ministry of Education ceilings. In short, the commercial-industrial assessment included in the annexation legislation is critical to the operation of the Middlesex County Board of Education.

Third, we have had no encouragement from the office of the Minister of Education that any type of compensation would be awarded to the board, in spite of the precedent being set in the municipal provisions of this legislation. It is our position that enhanced revenues are necessary for our Middlesex County Board of Education to continue to offer the quality of programs that it has over many years.

The spectre of amalgamation looms large in the minds of many involved in the educational aspects of this matter. Both boards involved are on record as opposing this alternative, for reasons that become readily apparent on the financial as well as the jurisdictional side, yet we are negotiating with this provincial interest hanging over us.

Finally, if we were to take the alternative that suggests that Bill 75 has no impact on the jurisdictions of the two affected boards, we run the risk of alienating the ratepayers in the annexed areas. These people would be asked to pay the city level of taxes without access to the city level of programming and services. The county would not be in a position to offer such enhancements either to the annexed areas or to the whole Middlesex system. The Middlesex board also fully appreciates the London board's concern over this alternative, as it clearly interferes with any desire that it might have to operate all schools within the boundaries of the city.

In summary, we submit that as the affected boards attempt to work their way towards a local agreement, the Middlesex County Board of Education retains its vision that the appropriate political structure requires that the future needs of the public school ratepayers be met by two viable public boards of education, one for Middlesex county and one for the city of London.

The tremendous impact of the legislation on Middlesex county is exemplified by the expectation that approximately 29% of the county's tax assessment base will be lost due to annexation. As a result of this dramatic loss in the tax assessment base and the serious loss in revenue, the county has expressed genuine concern to the Minister of Municipal Affairs about its ability to provide quality services to the residents of the county.

If the county cannot continue to provide services to its residents without financial assistance from the city of London or the province, then the county school board is in no different position. Applying the boundary lines established in the London-Middlesex annexation bill confirms that the Middlesex County Board of Education stands to lose approximately 35% of its commercial-industrial assessment and approximately 10% of its residential assessment base. These two figures combined indicate that the board would lose approximately 24% of its assessment base, when in fact it would be reducing its costs by somewhere between 6% and 9%.

It is our opinion that the extension of the educational boundaries to the new municipal boundaries would in fact end up as a windfall of revenue for the city board and a threat to the viability of our county board. We do not believe that this was the intention of those setting out to establish new boundary lines. In short, it supports the position that the county board of education is most reasonable in seeking enhanced revenue to replace that loss if educational boundary lines were consistent with municipal boundary lines.

The Middlesex County Board of Education must remain on record as opposing the current annexation boundary lines. We feel this is a land grab of excessive proportions. We find it difficult to believe that city officials are seen as better planners for agricultural land development

and more concerned about protection of the environment. We believe it is more a response to the developer lobby.

We join with the county of Middlesex in supporting the option of the boundary lines suggested in the 1988 city of London proposal to the then Minister of Municipal Affairs, John Sweeney. At that time, even the city was satisfied with requesting the annexation of approximately 23,000 acres of land. This proposal also included the recommendation of coservicing and a shared cost-of-service arrangement between the city and the county. This proposal was, we understand, unanimously accepted by London city council, but did not get beyond the proposal stage because of the opposition of the Ministry of Municipal Affairs.

We believe this 1988 request by the city of London would still provide the city with enough land to expand and is the least costly proposal for the citizens of London, since residents would not face large increases in their municipal taxes to cover the cost of a compensation package to the county. This proposal would also leave the three schools included in the current annexation boundaries within the jurisdiction of the Middlesex County Board of Education. All schools would remain viable institutions and the retained industrial-commercial assessment would continue to ensure the viability of our Middlesex County Board of Education.

We understand there is a reluctance to consider such proposals at this point in the legislation due to your time lines, but we also respectfully submit that the 1988 proposal was never given a full hearing, just as the submission by county council over three months ago does not appear to have been given any serious consideration.

We conclude with the strongest exhortation for a reconsideration of boundary lines and a reduction of this excessive land grab. Failing any consideration of such a reduction, we must seek your support for a resolution of the educational matter that will satisfy the ratepayers within the annexed area as well as those in the remaining municipalities of Middlesex county.

We reiterate our vision that the appropriate political structure required to serve the future needs of the public school ratepayers is that of two viable public boards of education, one for Middlesex county and one for the city of London. I thank you for your attention and consideration of our presentation.

The Chair: I just want to say to anybody standing back there, you can take some of these chairs and just move against the wall. It'd be a lot better. You'd be able to hear better, too.

It looks like we might have about three minutes for questions from each party. We start off—

Ms McIlmoyle: Mr Chair—

The Chair: Sorry, I thought that was the end of the presentation.

Ms Ruth Jackson: This brief is being presented on behalf of the three Ontario Teachers' Federation affiliates of Middlesex county: the Middlesex Women Teachers' Association, the Ontario Public School Teachers' Federation, Middlesex district, and the Ontario Secondary School Teachers' Federation, district 41.

Collectively, these groups represent over 800 educators who provide learning opportunities for the more than 11,000 students served by the Middlesex County Board of Education, the largest employer in Middlesex county, with an annual budget approaching \$75 million. Thank you for affording us the opportunity to speak today on behalf of our members.

We also made our concerns known to the annexation arbitrator, John Brant, during the hearings last March. For too long the impact of annexation on the operation of the Middlesex County Board of Education and its students and staff had been overlooked while city and county municipalities have met privately trying to reach a consensus on the future shape of the county and, until last April, denying board officials and the general public access to the debate.

During the process of creating the Middlesex County Board of Education in 1969, the Ministry of Education responded to pressure from Middlesex county, recognizing that the residents wish to maintain a school system which could better relate to and empathize with the needs of rural students. The ministry recognized the immensity of the area to be administered and that special leadership needs different from those of a large urban school board would better serve the rural community. In the 23 years of its existence, the county board has developed both a philosophy which recognizes the unique nature of rural education and a variety of programs geared to the needs of county students.

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Children in Middlesex county schools are well-rounded students, receiving an education that goes well beyond the basics. The bond between the school and the community seems to be stronger in rural areas than in large urban centres. The Middlesex County Board of Education delivers the special kind of spirit that lives in our schools. The strong relationship that exists between the schools and their communities allows the schools to tap into resources unique to a rural community. These special resources only serve to enhance the programs, many of which reflect the historical, agricultural and natural resources found in our small towns and villages.

In his April 3 report, which made recommendations leading to Bill 75, John Brant stated, "The Middlesex county board is justifiably proud of its distinctive character responsive to community needs throughout the county."

In many cases, schools provide the focal point of the community. Programs are tailored to rural needs, parents take an active role in school programs and small schools thrive and provide a special education in small communities.

In her comments to the Legislature on October 19, the member for Middlesex indicated that "the Middlesex County Board of Education provides a very unique service for our children and for the county of Middlesex, inasmuch as it provides the kind of education that is geared for rural students and meets their needs in a remarkable way."

It's a board that has provided the kind of education our children need to take their place in Ontario society. Inasmuch as 35% of the tax base on which it depends will be gone, lost through this annexation, we have serious concerns whether our children will continue to receive the

excellent quality of education we've come to expect and appreciate from the Middlesex board.

I'd like to outline some concerns of our Ontario Teachers' Federation staff members:

(1) Career aspirations: Many teachers have already made or have begun to make plans for career advancement within the Middlesex County Board of Education.

(2) Attitude towards staff: When the county board was created in 1969, there was a merging of equals into one board, where all learned from the experience of others. There were neither large nor small boards.

(3) Staff adjustment: If schools are annexed into the city, staff will experience stress as a result of the clash caused between the distinct corporate cultures of the London and Middlesex boards of education.

(4) Loss of identity: Being associated with a small rural board has permitted staff members to appreciate the close-knit relationships that have developed with other teachers, administrators and elected trustees over the years.

(5) Employment conditions: Although the continued employment of annexed teachers is guaranteed through the Ministry of Education, regulation 56, section 3, teachers are concerned about maintained seniority, transfer policies, placement in appropriate salary categories and contractual benefits.

The teachers of the Middlesex County Board of Education, while not being immediately affected by the enactment of Bill 75, have an interest in that section 56 of the bill empowers the Minister of Education to alter the boundaries of the school divisions of the Middlesex County Board of Education.

There are no historical or legislative precedents that would lead teachers to believe that altered school board boundaries would be allowed to differ markedly from municipal boundaries, and in fact, politically, have every reason to believe that the London board of education would expect that its boundaries would coincide with those of the city of London. Although the local boards have been directed to arrive at a local settlement, we believe that outside constraints from the province, and the interests of city residents, will in fact mandate the nature of that settlement.

Since the release of Brant's report, our concerns have been heightened by the large area of the county to be annexed under Bill 75, the major impact of the loss of taxation revenue without a corresponding loss in responsibility to provide services to residents and by the continued failure of the government of Ontario to provide or mandate a funding model to keep Middlesex county and its component municipal jurisdictions viable entities.

In fact, the arbitrator suggested restructuring and looking for new partners, which has already resulted in talks such as those between West Nissouri township of Middlesex county and Zorra township of Oxford county. This could only lead to a further breakup of our county.

We, as teachers, have every reason to believe that the provincial government will take the same approach to educational jurisdictions. No additional external funding will mean that the Middlesex County Board of Education will no longer have access to sufficient revenue to offer the same high-quality programs county students need and

want. It also seems clear to us that the London board of education would have little or no reason to forgo any of the additional revenues that would be generated from the additional assessment it would require.

What choices are there then to be made to provide educational services within the remnant Middlesex county? We offer three.

Choice 1: Maintain the current boundaries of the educational jurisdictions, both from a student and an assessment perspective. But there are problems. City of London residents would be without the London board of education services. There would be an inconsistency of boundaries as compared with those of the Education Act. London city council would indeed be setting the mill rate for the Middlesex County Board of Education levy and therefore there would be two educational mill rates within the city of London.

Choice 2: Alter the educational boundaries according to the municipal boundaries. Again, there are difficulties. The Middlesex County Board of Education would require additional funding to maintain services, either from the province and/or the city of London board. Other problems would include: increasing average per-pupil costs, especially at the secondary level because of smaller-school student populations; the transferring of three elementary schools—students and staff—to the London board; and losing up to 35% of the commercial-industrial assessment of the county.

Choice 3: Amalgamate the boards of education. However, this would create problems by creating many extra costs to make the systems compatible—staffing, busing, collective agreements, levels of services and types of services—which will not nearly be offset by any economies of a large system, and dramatically decreasing the representation on the board from rural areas.

It should be noted that this process is an almost exact parallel to the municipal regional government difficulties where the overwhelming population numbers from the city of London would result in those representatives dominating the board. We'd like to point out that during the Brant hearing this municipal scenario was strongly repudiated.

We as representatives of the teachers of Middlesex county strongly support maintaining the current boundaries or, failing that, adopting the new educational boundaries to coincide with the municipal boundaries, provided that adequate compensation for current and further funding needs are forthcoming from the province and/or the city of London.

It also seems obvious that the best way to achieve these objectives would be to greatly reduce the area to be annexed under Bill 75, as we proposed in our presentation to the arbitrator, John Brant.

Thank you for your consideration.

The Chair: Thank you. One question, Mr Eddy, or Ben?

Mr Grandmaitre: One question?

The Chair: We went 25 minutes in the brief alone, so—

Mr Grandmaître: Can I take one half of the question and he take the second half of the question?

The Chair: One question.

Mr Grandmaître: I find it very surprising that two of the most important elements or components of a viable community, the county board and the PUC, were not invited to participate in this annexation, maybe the largest annexation to ever take place in the province of Ontario.

I was listening to the previous speaker, who mentioned the loss of 24% of your total tax base, was it? How will you be able to budget for 1993 with this kind of loss of assessment and no compensation coming from the provincial government?

Mr Ted Anderson: Essentially, I think we'd be in great difficulty to do it at all. I think that's the bottom line. Our per-pupil costs would be quite different—

Mr Grandmaître: Just a second—

Mr Anderson: Essentially, I'm saying that our per-pupil costs for what we could spend on our students in our area would have to be drastically reduced because the local taxpayer could not foot the load.

The Chair: Sorry I cut you off there short. Ms Cunningham.

Mrs Cunningham: I had the pleasure of visiting the Middlesex county schools a week ago on a Friday and it was just as you described them, so I thank you for being here today.

There is a sense of urgency here and I'm just wondering if you have heard from the Minister of Education at all since the last time we talked, which would have been two weeks ago now.

Ms McIlmoyle: No.

Mrs Cunningham: Mr Chairman, I would suggest that you as Chair make a phone call, because I've tried, the board has tried, the teachers have tried and I think it's high time the minister got together with these people.

Mrs Mathysen: Very quickly, Mr Chair, I have a number of questions.

The Chair: One question.

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Mrs Mathysen: I'd like to begin by acknowledging the excellence of the Middlesex board. I've been looking over some stats regarding skills with mathematics and science, and I note that Middlesex county students scored higher than the provincial average. So I think it speaks well of what happens in Middlesex county.

Very briefly, the cost of this annexation or amalgamation or whatever comes of this is going to be very high. What cost analyses have been done by the Ministry of Education? If, as was described, there is a dismantling of the Middlesex board as a result of this annexation, what do you think the ultimate results of that will be for students—and I think students are important—teachers and parents in Middlesex county?

Mr Anderson: It appears abundantly evident that the costing would be associated with some of the more en-

hanced programs that a city could provide, basically, technology into grades 7 and 8, instrumental music.

As far as basic programming is concerned, we feel that we would compare quite well, but those are very expensive programs. They are capital in nature and the supplies needed for those are very high.

As far as the amalgamation of the two boards is concerned, it would produce differences in representation. Related to trustees, for instance, three trustees would probably represent the county when right now 16 trustees overall represent the same area. So the individual's contact with the local trustee within communities would diminish.

As far as the staff and people within the system are concerned, I think it's very fair to indicate that probably everybody on the staff would receive a pay raise, and that raises the question as to why people teach in the county. It's essentially because there are other factors that attract them.

So those would be the major costs that we would see in any changeover as far as that is concerned. Teachers would benefit on that basis, but I think they teach in the county for different reasons, not better or worse reasons, but just simply for different reasons.

The Chair: I'd like to thank you for your presentation, and I'd like to have the PA give a few comments.

Mr Mills: I'd like to comment. Perhaps this will help with some of the comments that have been made. Bill 75 is designed to provide time for the two boards of education to negotiate a local solution, and we must assume that both boards are equally concerned with the provision of the best possible education to the students throughout the region and wouldn't be so parochial as to be unwilling to negotiate fairly to that end. That's the position of the minister.

The Chair: Thank you for your presentation and for appearing before the committee.

TOWN OF WESTMINSTER

TOWNSHIP OF LONDON

TOWNSHIP OF WEST MISSOURI

The Chair: The next group is the town of Westminster. Come forward, please. Everybody has the brief in front of them.

Mr Sutherland: Mr Chair, while they're coming forward, can I just clarify that you said each group now is having 25 minutes because we got started late?

The Chair: Yes.

Mr Sutherland: Okay, thank you.

The Chair: I'd like to welcome you here to the standing committee on finance and economic affairs. There's a time frame of 25 minutes per group, but we've had to cut it down. We've got a vote coming up at about quarter to six, and we want to make sure we get everybody on and get as much time out there as possible. I'd appreciate it if you'd identify yourselves from left to right. You may begin.

Ms Barbara Mitrow: My name is Barbara Mitrow. I'm a councillor for the town of Westminster. Douglas Stanlake is the town administrator. Mr Stanlake and I are here today on behalf of and at the request of the town

council in Westminster to give an alternative proposal to Bill 75. Sharing the same time spot as the town are Mr Albert Bannister of London township and Allen Budden, reeve of West Nissouri township. Due to the brief time allotted for the town of Westminster, I'll be omitting some sections of our written brief during the presentation.

The council of the town of Westminster is on record as supporting a modest annexation of town lands, leaving the town economically viable. We do not believe that Bill 75 is in the best interests of the London-Middlesex area. A better agreement on annexation for the county and the city is available.

The municipal elections of November 1991 reflected the need for a change in the leadership of council and several new members of council were elected. However, the minister's action of directing a provincially imposed solution immediately after the election deprived this council of the opportunity to negotiate a local solution.

Recent Ministry of Municipal Affairs reports on the cost to implement Bill 75 have confirmed council's worst fears that the true costs of Bill 75 are not known. We are now aware the province is going to contribute a minimum of \$7.5 million to offset the costs of annexation to the city. A better solution at far less cost to all residents of the area must be found as the correct solution.

Westminster council approved a November 1988 proposal of the city of London as a basis for consensus as an alternative to Bill 75. The 1988 proposal has received support from the Ontario Federation of Agriculture, the county of Middlesex and North Dorchester and West Nissouri townships.

The November 1988 proposal is a lower-cost alternative to Bill 75 for all taxpayers in the area. The proposal manages agricultural land in a more sensitive manner and allows the agricultural land to remain in the county of Middlesex. The growing city compensation package to the county, now to be added to by provincial grants, is an added tax which will further burden the property owners and businesses of the city of London and any lands annexed to the city.

A more equitable and fiscally responsible solution is available. Its basis is found in cooperative agreements and mutual use of resources for the area. A local solution could have been pursued except for provincial intervention in 1989 by the then Minister of Municipal Affairs, John Sweeney. His terms of reference, attached as an appendix, prohibited the alternative being discussed. The November 1988 proposal still represents the basis for a local solution which has the least financial impact on all parties, including the province.

Cooperative servicing and agreements can and do work and are the key to reducing the large costs of Bill 75. The 1988 city proposal recognized that the industrial base in Westminster is vital to the economic wellbeing of Westminster and the county of Middlesex. To quote from the city's proposal, "London has no wish to cause serious damage to the tax bases of Westminster and Middlesex through annexation." The city's proposal further states that the cooperative service area is not strategic to the city's

land requirements. The city's offer was for shared service at fair cost to the town.

The minister's arbitrator, John Brant, in his report also endorsed shared services. He recommended that intermunicipal services be provided by the city to adjacent communities wherever possible, but only in circumstances where the city received complete cost recovery for services.

Joint service agreements do work, as exemplified by the town-city W12A landfill agreement and the town's agreement to provide the city with sewage treatment service, boundary road agreements etc. Brant recommended shared services be acceptable, the city offered to share services and surrounding municipalities have had a history of shared service agreements. The only party not willing to accept the idea of shared services was, and apparently still is, the province. It was not possible to develop a local solution when the provincial agenda dictated roadblocks to a local solution. Minister Cooke said he wants a local solution, and the November 1988 proposal is the basis for a lower-cost alternative based on shared but fair cost-servicing plans.

The city's 1988 proposal was based on future needs following existing policies and the total amount of land needed was 23,202 acres. The Sewell commission report, due out in early 1993, will serve as new policy direction for urban areas. No doubt the amount of land needed by the city will be affected by the Sewell commission report by reducing the amount of land required. Why make a major error now by allowing the city to annex nearly three times the amount of land the city says it needs for its purposes? The only practical answer that should be considered is the 1988 proposal.

The 1988 proposal would mean a loss of about 20% of the assessment and real tax dollars for Westminster. While this is a significant financial drain, there would be some savings on the expense side, but the loss would still leave the town as a viable municipal unit. The greater impact would be far fewer dollars to the county of Middlesex in the form of compensation payments. The result: The taxpayer gains in the millions as fewer nonproductive dollars are spent in the form of compensation.

The landfill site located in Westminster and nearly five miles from the city's current boundary is the subject of a shared service agreement, currently to terminate in 2006, between Westminster and the city. There is no logical reason to permit the annexation of an additional 40,000 acres of land from Westminster just to let the city control 500 acres of land it already owns. To address the city's concerns, the town is willing to renegotiate the shared service agreement to ensure the city of London has long-term use of this facility. This concession alleviates any need by the city to take a large portion of Westminster, of mainly farm land, just to ensure the long-term use of this existing landfill site.

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We believe the alternative now accepted by town council and adjusted to reflect any substantive changes since 1988 is a reasonable local solution, benefiting all in the London area, and is far less expensive a solution to the taxpayers than Bill 75.

Bill 75 is not based on the public hearings chaired by Mr Brant and does not represent the majority of public opinion presented on this annexation issue. The solution should not be a result of developer-driven objectives whose interests are not aligned with the general public interest. The people, if you care to listen, have been telling local politicians and members of the provincial House that they do not want this massive annexation. The rural community of Westminster is very fearful that under the control of the city of London council its economic survival will be threatened and its community will be shattered.

The November 1988 proposal is a local solution which meets reasonable growth expectations of the city of London, does not subject the city of London residents and any annexed residents to potentially excessive tax increases and further ensures the economic viability of the county of Middlesex.

I urge the government to give careful consideration to this proposal and the alternative contained herein and to show that it cares for and respects the wishes of the majority of the residents of Middlesex county.

Regardless of the extent of the annexation, town council supports area rated services which means, through the property tax bill, a property owner would pay only for the services he receives. Area ratings should be mandatory, not permissive. In addition, all costs associated with area rated service should be included in the area rates. Diverse interests of rural and urban mix require a different accounting and cost recovery process of services than those currently followed by the city. A complete paper on area rated services is attached.

The financial impacts of Bill 75 can only be determined by a full financial impact study based on accurate figures. This should be completed before proceeding. Council supports the federation of agriculture in its request that the right-to-farm legislation and the code of practice be part of Bill 75.

The council has been fortunate to have loyal and valued employees who are affected. They should not lose by the passage of any annexation legislation. We would urge that regulations be implemented under section 19 of the bill to protect security of employment and benefits.

To assist the committee, we have completed a clause-by-clause review and it is appended to this submission.

We believe a consensus and agreement on the principles to be included in legislation could be worked out in time to allow Bill 75, in an altered form, to be passed before year's end. We would respectfully request the minister allow the parties one last opportunity to formulate a proposal which would be a lesser cost proposal than Bill 75. Our concerns are for the people of the area and financial future they will face if changes to Bill 75 are not made.

Blind faith that the final legislation will be good for the residents of London and Middlesex is simply not acceptable. In general terms, we believe that a number of sections of the bill must be rewritten to delete reliance on minister's regulations and be replaced by specific wording in the legislation.

Thank you for your time. We would be pleased to answer any questions.

The Chair: We will be having three minutes per party.

Mr Albert Bannister: Mr Chairman and accompanying panel members, thank you for the opportunity to appear before the committee on behalf of the township council and provide comments concerning Bill 75.

London township has put forth its best efforts in arriving at a suitable solution to the boundary adjustment but still has concerns in the following areas: shared services; asset and liability adjustment; adequate compensation; buffer zone.

Shared services: The Brant report, pages 18 and 27, recommended shared services to Arva and Ballymote. There is no mention of the shared services in the existing legislation. The two areas recommended for shared services are within the proposed buffer area. The cost of connecting to the services of the city of London by intermunicipal agreement would be borne entirely by the township in conjunction with the development industry. Shared services are already well established both for the city of London and other municipalities; examples are gas lines and water lines. An agreement in principle for a boundary adjustment with the city of London dated September 13, 1991, provided for shared services for both water and sanitary sewers to serve Arva and Ballymote, with a maximum growth of 1,000 units for Arva and 500 units for Ballymote. The city of London jointly with the county of Middlesex and the townships of London and Delaware requested the Honourable Mr Cooke to conclude the boundary adjustment agreements in principle in September 1991.

Asset and liability adjustment: London township is concerned that assets vital to its future operation may be in jeopardy, and a particular concern is the existing township-owned sandpit, which also provides sand to the county of Middlesex.

London township will retain approximately 175 miles of roads, not including county and provincial roads, which will require winter sanding. London township has a total of 110 bridges and culverts. Only eight of this total will be in the annexed area.

The assets of London township were adjusted by the major annexation of 1961, which reduced the township of London from approximately 40,000 to 5,500. How many times must we give up our assets? The existing assets should remain totally with the township, except for those which are clearly area-specific, for example, water systems.

The sandpit should be excluded from the provisions of subsection 13(1) and remain in the ownership of the township of London.

Assessment revenue lost for all time would be considered as part of the asset and liability adjustment process. The tax base is an asset, as far as London township is concerned.

Adequate compensation: The ability for the township of London to remain viable is dependent to some extent on the compensation to be paid. The following is presented for your consideration:

The township's estimated shortfall after adjusting for reduced expenditures and loss of assessment revenue

amounts to \$501,256. The ministry has provided various analysis figures to demonstrate the annexation impact. None of those provided to date has been proven accurate. The ministry has tried to show annexation costs as net overall, when general municipal rates are calculated in some municipalities to increase by as much as 52%, according to the ministry figures. The public is being misled with the information being provided through the financial impact analysis. London township is losing approximately 35% of its tax base assessment.

The buffer zone: The buffer zone as it has been described will allow for growth on full urban services. The control of the buffer zone can be and is presently being provided for as follows:

The Ministry of Agriculture and Food requires justification reports for the use of agricultural land for purposes other than agriculture.

Ministry of the Environment approval is required for all water, storm sewer and sewer treatment facilities required to service any development.

The Minister of Municipal Affairs must approve all official plans to allow for any development not presently designated in an existing official plan.

Development on the boundary of the city of London since annexation in 1961 has been virtually nil.

The city of London has urban-sprawled to create the present situation and now wishes to further that urban sprawl on to the rural areas, including good agricultural land.

In conclusion, the township of London is of the opinion that Bill 75 presently before the Legislature, and the current Ministry of Municipal Affairs proposed amendments, do not encompass all of the matters set forth in the Brant report, nor does the compensation package offset the impact of the assessment loss over a reasonable period of time, and allows the city of London to virtually steal the jewels of the county of Middlesex and at the same time place an additional tax burden on the city of London ratepayers.

The legislation as proposed brings with it additional uncertainty beyond the Brant report, as a result of several sections giving the Ministry of Municipal Affairs regulatory powers.

In addition to the items previously mentioned in this presentation, we also draw to your attention the fact that the W12A landfill site is not made mention of in the legislation.

We appeal to this committee to bring forth amendments to Bill 75 before its third and final reading to reflect those issues which have been brought forward by the concerned parties, so as to maintain the financial stability now existing and the current level of service to the lands remaining after annexation; or, as an alternative, that the legislation provide for the boundary adjustment to reflect the agreement in principle, which would at least reduce the magnitude of the financial impact on the ratepayers of the township of London.

We strongly recommend that the members of this committee review the township of London presentation and accompanying documentation which was presented to the

panel members at the public hearings in London on September 25, 1992.

I would be happy to elaborate on any of the concerns expressed in the presentation or answer any questions the committee may have.

The Chair: We'll have time for one question from each party.

Mr Sutherland: There's one more to hear.

The Chair: Oh, I'm sorry. West Nissouri.

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Mr Allen Budden: If the committee would like to follow along, it's the document with the township logo on it. The township of West Nissouri is pleased to have this opportunity to briefly outline our major concerns with the London-Middlesex annexation process in general and Bill 75 in particular.

It should be noted that the council of the township of West Nissouri has always been, and continues to be, opposed to the annexation of any lands from the township to the city of London. This position is based on the fact that neither London nor the province has ever put forth any compelling justification as to why a federally owned and operated airport has to be within the city of London municipal limits. Our submission to the office of the greater London area arbitrator in February 1992 outlines in detail our rationale for this statement. I trust that each member will review that submission, having regard to the original terms of reference, and I am sure you would acknowledge that West Nissouri's position is a valid one.

However, being in the situation we find ourselves in today, council has asked me to highlight its concern with Bill 75 in the event that it should become law.

Due to municipal restructuring, council has serious concerns over the fairness of section 13 of the bill, which may require a cash payment to the annexing municipality if a particular asset is not taken, but compensation has to be paid. The council also sees an inequity in the fact that no compensation is to be paid for any assets taken by the city.

Under planning, council continues to oppose the concept of the buffer area as being onerous on the remnant county municipalities and should not be necessary with proper provincially approved official plans, and many of them are just being approved now.

Council feels strongly that the W12A landfill site should be made available to all municipalities within the county of Middlesex, as recommended in the Brant report. The huge loss of assessment base in West Nissouri township, coupled with the closure of the Green Lane landfill, where we disposed of our residential waste, has made garbage disposal a very costly item. We now ship our waste to the Ridge landfill near Chatham, adding enormous transportation costs to our ratepayers. W12A seems to be a logical and reasonable solution to our waste disposal problem, which has been compounded by the financial impact of the annexation as proposed in Bill 75.

Council would formally request that this matter be included in Bill 75, permitting all Middlesex municipalities to use W12A.

Under financing, this is the most important aspect of what council feels about the position we are in. We have had a chance to review the financial impact documentation of the London-Middlesex annexation report from the Ministry of Municipal Affairs of October 1992 and would like to stress in the strongest possible terms our dismay with the quality of the report.

Staff have reviewed the document, and their comments are attached as appendix 1 to this submission. Without going into all the details, concerns have been raised over the accuracy of the demographic summary, the roads network transfer summary, the assessment transfer summary, the lower-tier adjustment summary, the local annex assessment impact calculation, the equalization factors used, and ultimately the overall compensation figure arrived at. Without clarification and justification by ministry staff, council is not satisfied that the \$350,000 figure is accurate and reliable.

The document has raised, in council's opinion, more questions than answers and therefore begs the question, how reliable is the impact analysis and does anyone know the true cost of this massive proposal?

It is council's view that the financial impact must be accurate when it affects over 370,000 people and, until such time as it is, the process should not proceed any further.

Council also suggests that to evaluate the true impact and cost of this annexation, the school board taxes must be included. I think it's obvious to everyone that there will need to be a change of some sort with the two school boards involved, but we have been told that there will be no change as a result of Bill 75. The actual per cent of our school board's tax bill in West Nissouri is well over 60%, yet it is missing from the bill.

This does not, however, mean that there will not be a change in school taxes at a later date once the two boards go through essentially the same process the municipalities have gone through over the past two years. Council stresses that this is a cost of implementing annexation and it should be known before Bill 75 is enacted.

In summary, if Bill 75 does become law, council would urge this committee to allow the local municipalities to govern their own land use planning and therefore eliminate the buffer. They would urge you to, secondly, review the impact analysis for accuracy and completeness and, finally, ask you to include a provision in Bill 75 for the use of W12A for all local municipalities within Middlesex county.

The fact that there is no compelling planning or public policy reason for the city annexing the London airport; the fact that the city of London, in its own submissions, originally withdrew its demands vis-à-vis West Nissouri; the fact that these issues were only returned to the bargaining table by the initiative of the province; and the fact that to date, no compelling provincial rationale has been expressed for this can only lead one to conclude that there is no foundation or basis for boundary adjustments involving the London airport lands.

The township of West Nissouri is a rural municipality. It has never planned in any way for urbanization, nor has it

ever threatened through urbanization or the demand for services the role of the city of London as the urban focus for Middlesex county. The township's lands adjacent to the city of London remain active and viable as rural agricultural lands and as lands to be used for their aggregate resources. There are no drainage or watershed issues which suggest annexation. There is no solid rationale for the London airport being within the city of London, and there is every financial reason for keeping it within the township of West Nissouri.

Without in any way meaning to intrude upon the interests of the city of London vis-à-vis other municipalities or the interests of those other municipalities, the township of West Nissouri respectfully submits that the only reasonable solution to be arrived at with respect to the city of London's boundary adjustment requests would involve a reduced annexation involving no annexation of West Nissouri lands whatsoever, all of which is respectfully submitted.

The Chair: Thank you. Do you have any comments, Mr Stanlake? No. Okay, I didn't miss anybody.

We've run up to 25 minutes; we won't have any time for questions. I think it would be appropriate if we had a telephone number to reach your group in case of any of the members want to call. Do you have that on file, Todd?

Ms Mitrow: May I make a comment? As a member of Westminster's council, I want to make a comment to all the elected people sitting around this table. We travelled down here this morning to make this presentation on behalf of this council. We are a 175-year-old municipality, and Bill 75, this proposed legislation in its current form, would erase this municipality from the map of Ontario for ever.

You have given us 10 minutes—no questions, just 10 minutes. I strongly object to that. I think it's an abuse. I am very angry about this. The city of London had a full hour. I don't know what this means. I suppose it means that to get the government's attention, you have to be a big municipality. Obviously, the small municipalities don't get any.

The Chair: I'm sorry, but this was decided by the subcommittee. I'm the Chair here. I run the time and that's—

Mr Sutherland: If I could just comment on that, let's be quite clear. We had more people than we could accommodate on the speakers list. It was agreed upon by the subcommittee, representatives from all three parties, that first of all the county would come in for an hour and that the city would come in for an hour. That was agreed by the representatives and that is what occurred, and then the other groups came in. That is how they were chosen.

We thought we were only going to have the one day and we tried to accommodate as many people as possible. I understand people's frustration. There are many committees where many people feel they're directly affected and they don't get as much time as they like. That's the unfortunate reality.

The Chair: A short response, Mr Eddy.

Mr Eddy: We could have arranged for more hearing time. That was a distinct possibility and should have happened, in my opinion.

The Chair: But we are following the House leaders on this.

Mr Eddy: Well, they've changed their minds now and there's more time; there is to be more time than we were originally allotted.

The Chair: I'm sorry. I just follow the direction of the House leaders. I'm the Chair and I follow the direction of this committee.

I'd like to thank you for coming before the committee.

CANADIAN UNION OF PUBLIC EMPLOYEES,
ONTARIO DIVISION, LOCALS 4, 101 AND 107
AND EMPLOYEES OF TOWN OF WESTMINSTER

The Chair: The next group is the Canadian Union of Public Employees and the Westminster employees group. Would you please identify yourselves. You have 25 minutes between the two groups.

Mr Doug Wheeler: I'm Doug Wheeler, president of Local 107.

Ms Mariana Grube: Mariana Grube, president of Local 101.

Mr Syd Ryan: Syd Ryan, president of the Ontario division of CUPE.

Mr Ken Brown: My name is Ken Brown. I'm representing the employees of the town of Westminster.

Mr Len Forster: My name is Len Forster. I represent CUPE Local 4, PUC.

The Chair: Fine. Who is starting off?

Mr Ryan: I'll start off. Before I get into the presentation, I'd like to make a few comments also. CUPE is the biggest union in the province of Ontario. I'd like to say that I find this process to be totally inappropriate, inexcusable and, quite frankly, an insult to the membership I represent.

I sat here this morning and listened to you say just a few moments ago that you gave the township and the city of London one hour to come in and make their presentations. We have had 15 minutes to make our presentation today. The insult I find is that we have Ken Brown, representing the unorganized workers, having to share a spot with CUPE. The employees who are most adversely affected by this process are the ones who have the least amount to say.

To be quite honest, I'm very very disappointed by the NDP, a party that I helped to elect and a party that I knocked on doors for. I'm absolutely shocked and dismayed that we would be treated in such a shabby manner. I tell you, you'll be hearing further about this beyond this process.

I'd like to get off by saying that this brief is presented on behalf of the Canadian Union of Public Employees Local 4, Local 101 and Local 107. Local 4 was created in 1945 and now represents approximately 400 employees of the public utilities commission of the city of London. Local 101, created in 1944, currently represents approximately 650 office, clerical and technical employees of the

city of London. Local 107, organized in 1941, currently represents about 450 outside employees of the city of London. The history of these locals in the community is long and rich and they are among the oldest labour organizations in the area.

Bill 75 will dramatically alter the structure of municipal government and the provision of municipal services in the London region. Undoubtedly the legislation will have an effect on the citizens of the area, but certainly its most dramatic impact will be upon the employees of the municipalities and the local boards directly affected.

These individuals look upon Bill 75 with understandable anxiety, fearing a possible loss of employment-related benefits, opportunities for advancement or even their employment. Their anxiety is understandable because Bill 75 offers no concrete answers to their concerns. All it really contains is a promise that something may be done to address their concerns.

In particular, important matters such as job security, protection of benefits, seniority and pensions are not dealt with expressly in this legislation. Bill 75 provides only that these matters may be the subject of regulations to be enacted at a later date by the minister. In other words, these employees are expected to rely upon a leap of faith, and hope that satisfactory regulations will be enacted to address their concerns.

Similarly, their concerns have not been allayed by the city of London, which has responded to attempts by Locals 101 and 107 to address the workplace transition issues flowing from Bill 75 by suggesting that such discussions should commence after the legislation has been passed. It is unconscionable to expect our members to simply wait and hope that these issues will be dealt with at some later date in a way which protects their interests. Instead, we propose that Bill 75 be amended to deal expressly with the worker adjustment problems that may result from its impact.

We now turn to deal with these potential problems separately, so that jobs, working conditions, benefits and job classifications be preserved and guaranteed.

On job security, we believe the vital concern over potential job loss is probably held most acutely by those employees of the London PUC, currently members of Local 4, who, as a direct result of this legislation, will cease to be employed by their present employer. However, it must be recognized that there is also legitimate concern by the present employees of the city of London. These employees face the distinct possibility that as a result of the transfer of other employees into their bargaining units, some of them might be deemed redundant or surplus to requirements.

The job security protection contained in Bill 75 is very limited. It simply requires the city to offer employment to those employees of annexed municipalities who were employed as of April 1992 and who continued to be employed as of December 31, 1992. A similar provision applies to employees of the public utilities commission.

Apparently the only obligation imposed upon the city is to offer employment to these individuals. There appears to be no guarantee or assurance that these individuals will be offered employment in positions that are similar or comparable to those which they presently hold. Thus, a

highly skilled person could be offered an unskilled position which would obviously be unsuitable, with the sole protection that his or her wage rate could not be reduced below its April 1992 level.

Secondly, there does not appear to be a continuing obligation to employ these individuals beyond January 1, 1993. If this is so, then the requirement that they be offered employment could be of little consequence.

Furthermore, we find the job security provision for surplus or redundant employees to be particularly weak. While the city or a local board is required to offer employment to any person deemed surplus during the six months following January 1, 1993, an employee declared redundant or surplus after that date does not appear to have any protection whatsoever. This short six-month period of protection can be contrasted with the Brant report, which recommended that such protection extend for a period of at least two years.

More alarmingly, even this very limited protection applies only to employees who were previously employed by one of the annexed municipalities. Specifically, this protection is to be found only in clause 19(2)(b). There is no similar protection for employees transferring to the city from the PUC or from the town of Westminster. Furthermore, there is no job security protecting employees presently employed by the city or the PUC who may find that their jobs are declared redundant as a result of annexation.

It is our position that Bill 75 should contain the assurance that any employee who may be adversely affected by this annexation should be provided with full and complete job security. In particular, the city or local board should be required to provide each transferring employee with a position that is equivalent or comparable to his or her previous position. In addition, there should be an express provision that no employee shall be declared redundant or laid off as a result of the annexation. The complete lack of such guarantees obviously fuels the anxiety of all concerned.

The employees of the affected boards and municipalities have neither initiated this annexation nor have they any power to stop it, but justice and fairness surely demand that they be protected from losing their employment as a result of it.

We note that there is legislative precedent for such job protection provisions. In particular, we refer to Bill 30, the legislation that dealt with the expansion of separate school funding and the transfer of employees from public to separate school boards. We also refer you to subsection 136(1) of the Education Act.

Protection for salary and benefits: Bill 75 provides only limited protection of the salary or wage of an employee transferred as a result of its effect and contains absolutely no protection for benefits.

With respect to benefits, we can appreciate that it would be difficult to draft protection for all the specific benefits currently received by employees. We also recognize that there may be some conflicts between the benefits currently received by employees and those which they will be entitled to receive as employees of the city of London. However, these technical difficulties cannot excuse the absolute failure of Bill 75 to deal with this problem.

It surely must be recognized that benefits form a substantial part of the compensation package received by an employee. In order to ensure that employees are not disadvantaged, we propose that Bill 75 be amended to include a provision for harmonization of benefits. Such a provision would require that where there is a difference in benefits, the city would be obligated to ensure that the affected employees receive the superior benefit.

Bill 75 does contain some protection for the salary or wage of the transferred employee. Sections 19 and 24 require that the transferred employee "receive a salary or wage at a rate no less than the person was receiving on the 1st day of April 1992."

It is our understanding that the date of April 1, 1992, was chosen to avoid the possibility that an employer might grant an exorbitant increase to its employees before the December 31, 1992, transfer date. While we can appreciate this concern, it does not seem to be relevant to scheduled wage increases under a collective agreement that was negotiated before April 1992. In such cases, there can be no suggestion that an employer has agreed to artificially inflate the wages of its unionized employees in contemplation of this legislation. In addition, this provision has an unfair impact upon an employee who has received a promotion to a higher-rated position after April 1992.

Accordingly, we suggest that these provisions be amended so that employees subject to a collective agreement be entitled to protection for their rate of pay on the transfer date of December 31, 1992.

Another problem which is not addressed by Bill 75 is the possibility of city employees being required to perform the same duties but receiving different rates of pay. The disharmony that could result from such a situation is not hard to imagine. Accordingly, we propose that provision be made for wage harmonization so that in such situations the affected employees will be entitled to receive the higher wage rate.

We appreciate that these amendments might involve some additional costs to the city, but we expect these costs will not be significant. If it is shown that these costs are significant, we would propose that the province assist the city with the cost of providing wage protection and benefit harmonization.

On the establishment of the hydro-electric commission, CUPE believes that the proposed hydro-electric commission be an independent commission, that it be deemed the successor employer of the London Public Utilities Commission and that the certification certificate be amended accordingly.

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CUPE also believes that the collective agreement negotiated between the London Public Utilities Commission and CUPE Local 4 be maintained, including all rights and benefits, and shall cover any employees working for the public utilities commission who may be affected by the annexation. Finally, CUPE asks that all rights, benefits, customs, practices and working conditions which employees now enjoy, receive or possess, shall continue.

On the question of retired employees, we recommend that the benefits negotiated for retired employees who

have served the employers and the community faithfully be maintained and enhanced to the point that all retirees receive the best package available.

To assist those employees who are close to retirement or considering early retirement, Bill 75 should contain a severance package for those employees between the ages of 55 and 65, due to the fact that those who may qualify under the OMERS 85 factor do not qualify for Canada pension until 60, at the earliest. Also, many employees between the ages of 55 and 65 do not have the required years of service in the OMERS plan to qualify for early retirement under the 85 or 90 factor.

Over the next five years, retirees could solve many of the concerns the employers may have over retaining employees surplus to the requirements under the proposed annexation.

In general, we'd say that locals 4, 101 and 107 have jointly agreed to the following concerning employees transferred to the city:

(a) That the current Local 4 agreement be maintained for its duration;

(b) That locals 101 and 107 administer the agreement with the city of London under a letter of commitment; and

(c) During the time frame between this date and the expiry of the Local 4 agreement, locals 101 and 107 negotiate with the city of London to merge transferred employees into the city agreements, with the intent of maintaining the superior rights, benefits and wages for all employees.

This position was tabled with the representatives of the city of London and public utilities commission at a joint meeting held between the parties on October 27.

The remainder of our presentation deals with some suggestions we would have to improve the process. However, in the interest of getting on and allowing Ken Brown to make his presentation, we conclude by saying that we find the provisions of Bill 75 to be lacking in specific protection for the employees who will bear the greatest brunt of its impacts. It is absolutely unfair to expect these workers to continue to live with this uncertainty in the hope that subsequent regulations will answer their concerns. Therefore, we propose that Bill 75 be amended to include the specific protections suggested in this brief.

Mr Ken Brown: My name is Ken Brown. I am employed as a municipal law enforcement officer for the town of Westminster. I am here today representing the employees of the town of Westminster, who have identified several concerns that have very serious implications towards their careers within municipal government. Answers for these questions have not been identified from any party involved with the transition process.

My number one topic is to deal with the terminology "employees." The town of Westminster defines the word "employee" as any person who is employed as at the date of the transfer on January 1, 1993, and includes those working full- and part-time hours, permanent and temporary staff, voluntary firefighters and contract people. Under the definition section of Bill 75, it's suggested that the following definition should be included: "'Employee' is a person who is employed by the town of Westminster as at the date of transfer."

Item 2 deals with termination or transfer. The employees of Westminster concur and support the recommendations of the director of the TCOC in her report to the steering committee of September 22, 1992, in particular item 1, that legislation should state that all employees are transferred to the city of London—and not terminated by Westminster, to then take employment with the city of London.

Item 3 deals with benefits. There should be no loss whatsoever of any benefit coverage to an employee as the result of the annexation. It's conceivable that a give-and-take situation could occur. However, if the employee is to receive less coverage with the city, a compensation package should be addressed for each individual—for example, a payment into a retirement fund or a bond or an RRSP or something of that nature.

Item 4 deals with wages. Wages for all persons involved in the transfer should be the same as they are receiving on December 31, 1992, or the date of transfer. Westminster is a performance-based system for merit increases, and numerous performance reviews will be outstanding because of their anniversary date. There are 21, to be exact. The employee has worked for and earned any increase that was received during 1992 and should not be punished by losing any increased remuneration because of the annexation issue.

Item 5 deals with probation or initiation. No employee should be required to serve any probationary period with the city of London or any initiation period with CUPE. The employee's probationary period has already been served with the town of Westminster and any further proof of his or her capabilities would be a duplication and completely unnecessary.

Item 6 deals with seniority. It should be stipulated in legislation that each employee's seniority should be the same in the city as in the town of Westminster for all purposes. For example, five years' employment with Westminster should equal five years' employment with the city and five years' seniority within the union. If the union were to require a catch-up fee, this should not be the responsibility of the employee. "For all purposes" would also include vacation time, various allowances that are available, sick days etc.

Item 7 deals with job security. All employees at Westminster should receive job parity with all city employees. Job security should not be addressed by a time period: for example, 6 months, 12 months or whatever.

Number 8 deals with time-oriented jobs. If an employee of Westminster is involved in a time-oriented job, such as the transition process or some type of planning project that deals with the annexation process, what will happen to that employee when the transition is completed in one or two years?

Item 9 deals with overtime, vacation and sick days. An employee should be able to carry forth his or her overtime, vacation time and the number of sick days accumulated with no loss whatsoever to the employee. If this is not possible or proposed by the city, all of the abovementioned items should be bought out at no loss of any kind to the employee.

Item 10 deals with the offers of employment, which we have not received. Legislation should be amended to read, "All employees who are made redundant either by annexation or county restructuring within the next two years shall be employed by the city of London at salary levels no lower than those of December 31, 1992, or the date of transfer."

Employment offers should include: where an employee will be positioned, including the location; all conditions of the employment; the training available or what is provided. To effectively deal with the transfer, the benefits, wages and seniority, a separate section in Bill 75 should be created as follows: continuity of employment. In the next two paragraphs, it goes on to describe my suggestion for the transfer of employees into the city of London.

In concluding, as January 1, 1993, fast approaches, there are 76 employees of the town of Westminster and their families who are still asking the above questions and we're not receiving any answers from anyone involved in this transition process. I appreciate that we're all under a severe stress load and we, the employees, respectfully ask that this committee assist in lifting a big load from the 76 employees and families by providing answers to the concerns raised in this report.

In closing, I respectfully request that this committee take the necessary action to ensure that no employee will lose because of the actions of this annexation process. I thank you for allowing me to appear before this committee. I'd be happy to answer any questions you may have.

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The Chair: I'm going to go to Mr Mills, PA for the ministry.

Mr Mills: I'd like to make a few comments in relation to the statement that was made at the beginning of this presentation. The representatives of the government have spent many hours meeting with representatives of the affected workers in order to address their concerns and as the presenters well know, the government representatives have undertaken to ensure, through regulation if necessary, that any negative impacts on workers will be minimal.

I'd like to comment about the amount of time allocated to the presenters appearing before the committee this afternoon. To say that the lack of time is a reflection of a lack of regard for the affected employees and their welfare I think is grossly unfair. CUPE has been represented on the technical coordinating committee since May, and many of the issues that you've raised here this afternoon are in fact on the agenda of the technical coordinating committee at this time.

Mr Brown: I'd like time to respond.

Mr Ryan: You'd like a response. Gee, I've only got five minutes here, so maybe I'll respond and you can respond after me.

Gord, I don't know how much you know about the ongoing of the committees down there, but we've had nothing but problems from day one in attempting to address our concerns and get our concerns on to the table. We spent yesterday morning having meetings and discussions, attempting to get clarifications around wages and

benefits. Now, it's a little bit late in the day to be turning around and saying we've had access to the system when in fact three and a half months after the system began we're still trying to get provisions and protections around the issues we've raised here today.

In terms of the process that's been followed, this is an open process. These are public hearings and our opportunity to have our say. I would expect that the employees, in terms of the pecking order, would at least rate up there with the employers. If you sit down and organize and give the employers one hour to make a presentation, I think it's a bloody damn—I won't get into it. I think it's wrong and I think it's inexcusable to turn around and give the employees 15 minutes and say to the unorganized employees, "You've got 15 minutes and both of you can go and share it." That to me is what I find unacceptable.

I find it unacceptable from a government that I walked the streets and knocked on doors and worked for and attempted to get elected. That's what I find inexcusable. What I say is that maybe you should take a look at who your friends in this room really are and stop treating them as shabbily as you've done in the past. That's what I'm saying.

The Chair: Mr Brown, do you have any comments to make?

Mr Brown: The only comment I have, sir, is that I would appreciate it if this committee would look at this report and give some serious consideration to bringing in some form of legislation to protect the employees. We did not ask for this annexation, and it would appear at the present time that there's a very good possibility we could lose as a result of it. I don't really think that's fair in terms of the employees.

The Chair: I'd just like to make a short comment on the presentations made by the city of London. These concerns were brought forward already in these particular areas and this are just more enlightenment a little bit further than they have, but they've touched on all these issues as they've come before the committee. They weren't there just for the city of London. They were concerned about the employees also. I'd like to thank you for appearing before the committee.

MIDDLESEX FEDERATION OF AGRICULTURE MIDDLESEX WOMEN FOR THE SUPPORT OF AGRICULTURE

The Chair: The next group is the Middlesex Federation of Agriculture. Would you come forward, please.

If you weren't in the room a little bit earlier, we've had to cut it down because we have a vote in the House and we got started a little bit late. If there's time left after your presentation, we'll go up to 25 minutes and have a question period, but you have a full 25 minutes for your presentation. I'd like to welcome you to the standing committee on finance and economic affairs. If you don't mind, identify yourselves and your positions.

Mr Doug Duffin: I am Doug Duffin of the Middlesex Federation of Agriculture.

Mr Bill Irwin: I am Bill Irwin, president of the Middlesex Federation of Agriculture.

Ms Carol Small: I am Carol Small, chairperson of the Middlesex Women for the Support of Agriculture. I'm going to start off tonight. I'm here on behalf of the Middlesex Women for the Support of Agriculture and wish to thank you for allowing us to speak and give our presentation to you today.

From the time of the Brant hearings until this hearing today, we in the Middlesex Women for the Support of Agriculture have opposed the annexation bid. Although we recognize that some annexation is required, we are opposed to the massive land annexation of 64,000 acres of prime agricultural land. Therefore, the first section of Bill 75 that we propose for change is section 2. An alternative proposal for this section, with which we are in agreement, is the Middlesex county proposal of July 1992. We have appended that to your brief.

We support the Middlesex county proposal for the following reasons: importance of agriculture in the life and economy of Ontario; London's record of land mismanagement; the lack of rural representation proposed for the new city, and a confiscation of 38% of the county's commercial and industrial tax base and the further confiscation of all of southwestern Ontario's tax base.

Let's discuss these issues in further detail. We have a valuable non-renewable resource. I stress that most emphatically: non-renewable resource. That resource is land. Not just any land, for in Middlesex county we have the good fortune to live in one of the richest agricultural areas in Canada. Middlesex county has the unique features of superior land quality, favourable rainfall and the moderating climate of the Great Lakes basin. These factors cannot be reproduced anywhere else in Canada.

When people eye our land for development, they are overlooking the fact that this land is already developed. That industrial development is agriculture, the manufacturing industry ranked second only to the auto industry in manufacturing in this province. In Middlesex county, 3,244 farms have \$1.2 billion invested in this business of farming. In the London region, farmers produce \$2 billion worth of products each year.

In Middlesex county, agriculture is a megaproject that happens every year, not as in the construction business, where it is the boom-and-bust cycle, or an industry that moves south of the border when the head office orders the branch plant closed. Every farm-gate dollar generates \$7 into the economy. Job spinoffs in agriculture are significant. One out of five jobs, or 20% of the jobs, depend on agriculture. In the London-St Thomas area, more than 3,500 jobs are in the food processing and beverage industries alone.

Prime agricultural land is less than 1% of this province's vast land mass. The Ontario farmer, the most productive of all workers, has increased productivity from feeding four persons at the turn of the century to feeding 120 people per farmer now. Despite further improvements in technology and productivity, one essential key component is still necessary to produce food. That key component is soil. Recent research from the University of Guelph states

that with the current land base—that's right now—and a 30% increase in production by Ontario farmers, in the year 2000 there will be a 4% food shortage in the province of Ontario. That's just eight very short years from now. And in Bill 75, you want to take 64,000 acres of prime agricultural land and give it to a major urban centre for eventual urban development and a regional garbage dump? Mind-boggling.

When you confiscate our Middlesex county land to create an enormous urban centre that will be 80% the size of Metropolitan Toronto, you confiscate the tax base not only for Middlesex county, but for all of southwestern Ontario. You intend industrial and commercial development to concentrate in London only, and not in the remainder of southwestern Ontario. London alone benefits from the larger commercial and industrial tax base.

We in Ontario have witnessed the concentration of a rich commercial and industrial tax base in the Metropolitan Toronto area deprive the rest of Ontario of equivalent services, no matter how many grants are given to try to equalize it in Ontario. A larger urban centre in our midst will further compound the issue and make remnant rural Ontario a deprived region. The remaining meagre tax dollars of the surrounding counties will not allow support of our schools, recreational facilities, senior citizens' homes and roads.

How will the province offset a 38% increase in county taxes or the 10% increase in school taxes and the local municipality tax? Surely not by trying to buy us off with some extra dollars for a few years. Here goes the seed money scenario again, and we all know who picks up the tab on that one: the local taxpayer.

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Long-term planning in agriculture is essential. Ten years and even 20 are insignificant in the time of the land. Agricultural stewardship and husbandry require time and money. Farmers living within the annexed territory are not going to upgrade their land or make improvements to their property, because ultimately that land will be within an urban area. The land, in effect, is in a holding zone for development. It is then mined, not farmed.

Speculators are buying and will continue to buy the land at high prices. This makes land too expensive for farming purposes. In the London area, the value of land for farming has already dropped to the point where the Farm Credit Corp has expressed concern over land values. Already apparent in the Toronto area, another effect of speculators' purchases is the cheap rental fee charged to renters of land waiting for development.

In our own province, where farming is in a a slim- or no-profit margin, this certainly upsets the level playing field, as farmers in the rest of Ontario cannot compete against these cheap rents. You can never, ever, protect agricultural land in an urban area. Can we afford to lose 64,000 acres of prime farm land?

One of Ontario's richest agricultural counties, the county of Middlesex, is to become an impoverished area because of Bill 75. Our county is about to lose 38% of its assessment and then is expected to be content with token dollars. Now London has asked for help to pay for annexation costs

and you have given it money. So now, with the rest of the province, we are helping to pay for London taking our land and assessment base. The province really has lost its sense of economic reality.

Who is going to pay as the province continues to dictate yet shirk its duties at the same time? Can London even maintain the good services the annexed area currently enjoys?

In closing, WSA wants to caution you that Bill 75 is being watched carefully throughout this province. In its current form and the methods you devised for its conception, you have given a whole new meaning to democracy or the lack thereof. You have stripped a municipality of its duly elected council. Where in any democratic country could this happen? Why did our ancestors settle our country and why have we fought in many conflicts to protect our democratic rights? Surely not to have them taken away by our provincial government. Look at your poppy and think about that on November 11.

Remember, perception becomes reality, and reality is not set on Bay Street but on the concession roads and in the towns and villages of Ontario.

From a local shop window, I wish to leave you with this thought: "A country without farms is a country without a future."

Mr Duffin: At no time has London had to publicly justify anything in this procedure. London's record on maintaining densities and providing hard services is suspect at best. London's density has gone from 32.01 people per hectare in 1960 to 16.89 people in 1989. The average density in southern Ontario cities in 1989 was 27.7 people per hectare. In fact, if what we are to read in the London Free Press is true, the province is going to pay for London's costs in this annexation. A city assuming the tax base and ready to service such a large area should hardly need to be begging for handouts yet.

While Mr Cooke is officially on record as still welcoming a local decision, the actions of his ministry have greatly hindered any efforts. By not having proper figures available as to the net cost of compensation to London and therefore having to take compensation off the table for now, London council has no incentive to continue negotiations.

Level of service in municipal government: Under the present municipal government structure, the area to be annexed is served by approximately 12 elected officials. If people in that area have a concern to raise with council, they can establish personal contact with a councillor, or one phone call to the township clerk can usually get them on the next council agenda.

Under Bill 75, the annexed area, twice the size of the existing city, is represented by one appointed official on a council of 20. After the next election there is a distinct possibility, under representation by population, that there will be no one voice for that annexed area. Rather, the area will be split among several wards.

London city council operates on a standing committee and board of control system. Consequently, city council deals with recommendations from these bodies but does not hear delegations directly.

In matters of planning and policy, agriculture has only been offered advisory committee status. This means that the agriculture advisory committee would report to the appropriate standing committee, which will vary depending on the issue, and if that standing committee decides to take action, it refers the matter to board of control, which decides if this matter is worthy of the attention of council as a whole.

To ensure that agricultural concerns are properly administered and dealt with, we need a committee with teeth. We propose that included in the legislation is an amendment requiring the city of London to establish a rural committee with the appropriate powers to make representation directly to board of control and council on matters relating to agriculture, the environment, transportation, community services and planning for the rural portion of the annexed area. This committee would function as an equal to the three standing committees of council and also comment on its activities from an agricultural perspective. For the purposes of developing the new official plan, this committee would report to the special planning projects committee.

The city's arrogance and paternalism in any dealings we have had with it forces us to demand provincial inclusion of this matter. One city councillor went so far as to tell us that she could relate to agriculture: She had owned a horse that she boarded in the county during the 1960s.

Planning: Bill 75 as presented poses several problems from an agricultural viewpoint in the general area of planning.

(1) The perception of the province is that through the official plan process the city will be able to regulate the amount of land available for development. The reality of the situation is that at the present time developers are assembling tracts of land and they will lobby the city to get these included for development in the new official plan.

(2) There is no mechanism to regulate the amount of land moving out of agriculture and into commercial-residential use. City council has not shown itself able to regulate building to the appropriate density. In an interview this week, the mayor said that the combination of lots of available land and low development charges will be used to attract industry. Maybe the 100-year solution will only last 20 years.

(3) In the development of the new official plan, the city starts with a clean slate and can designate as little land "agriculture" as it sees fit. Those in the annexed area have no choice as to the future of the land they own. In the meantime, the city can get the minister to change zonings without any public input.

(4) When the zoning is changed on agricultural land without your consent, the tax rate goes up. Market value assessment will also increase annexed agriculture's tax burden.

At the time of the zoning change, the previous 10 years' farm tax rebate becomes due and payable without any offsetting increase in income or capital gain from the sale of the property.

(5) Lands designated "agriculture" in the city's new official plan maintain that designation for 10 years from the date of the new official plan, not the date of the zoning

change. Any subsequent official plan requires only a five-year time delay. This gives agriculture, an industry with a very long-term vision, a minimal planning horizon. When John Brant proposed the 10-year delay in implementation, it was to take effect the day of the zoning change so that farmers always knew 10 years in advance.

Urban planning: Future planning for urban land use must have significant agricultural input. Development fees, densities and redevelopment will have an impact on the amount of land coming out of production. This annexation has been developer-driven. The city readily admits this and is pro development. The inclusion of such a large acreage in the annexation will entice larger developers with bigger projects. Without a tight rein on raw land supply, there is no pressure on redevelopment of the existing city.

The city's municipal tax structure must be reworked to end discrimination against higher-density housing such as apartment buildings. A city that claims to need more land when it still has enough zoned land for 50,000 units of higher-density housing needs significant provincial guidelines in planning. Once out of production, the land is gone for ever.

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On the buffer zone, we feel this is not needed if the official plans of the surrounding townships are as strong as we are led to believe London's is going to be.

County structure: The terms of reference laid down by the province from which Mr Brant made his report, the basis of Bill 75, were markedly slanted towards the development of a much larger and more powerful city of London. What was noticeably missing was an offsetting concern for the viability of the remnant county.

The minister has promised no annexation-related tax increases for the surrounding municipalities for a period of five years and then, on a declining basis, for the next five years. After the 1961 annexation, it took the surrounding municipalities 20 years to recover their tax base. London's large area will make it more difficult this time for the adjoining municipalities to attract new industry. With all the commercial-industrial assessment and the federal grant in lieu of taxes for the airport stripped from the municipalities, agriculture is the one left to pay, and believe me, the cupboard there is almost bare.

The magnitude of income losses for the surrounding municipalities has already prompted some of these municipalities to seek new alliances in regard to boundary restructuring. Bill 75 anticipates this and calls for restructuring within the county. However, the amalgamation of two non-viable municipalities does not create a viable municipality. The desire to maintain the continuity of community could lead to the splintering of the county, as municipalities would prefer to associate with their closer rural neighbour, not necessarily in the same county.

Conclusions:

(1) Implement an agriculture committee for the city of London.

(2) Before compensation is settled, ensure that the ministry numbers agree with the township and county numbers

and that it extends until the remnant townships are viable, in whatever form they're in.

(3) The W12A dump: Amend the act to get the Ministry of Municipal Affairs to pressure the Ministry of the Environment to expand the dump for the use of the entire county. The Ministry of the Environment should fast-track this and do it at least cost.

(4) Development charges: Amend the act to force the city to charge realistic development fees. This will promote the conservation of land. Present city residents, some of whom have never received services from the last annexation, should not be forced to subsidize new, extravagant development.

(5) Official plan: Ensure that the redevelopment of the existing city is prioritized over new development. London is headed for a Detroit-ghetto type of downtown, as it is rapidly being abandoned. For this reason, the official plan needs to consider the entire city, not just the new parts.

(6) Amend the act to force the city to rework its tax structure that favours urban sprawl by discriminating against higher-density housing.

(7) Force the city to restrict the raw land supply for development. This will increase the price of land and promote conservation of land.

(8) Enact 25- and 50-year agriculture designations for remote lands. Major decisions are made on more than a 10-year time horizon in farming.

(9) Enact regulations to force the city to be a responsible steward of the land. We have improved the land in the last 150 years that we have farmed it. Do not give the city the right, in a two-hour council meeting, to destroy it for ever through urban sprawl.

(10) Show in the legislation that you are serious about allowing agriculture to flourish in the new city. As a start, put in the agricultural code of practice with the strength and right to farm in the city's new official plan. Do not wait for London's official plan to do this, as the ruination of the agriculture industry in the new city has already started. A 50,000-acre wasteland in the midst of southwestern Ontario, Canada's prime agricultural land, is quite a legacy for one man and one government to create.

Mr Irwin: In the interest of time, I'll just make a few points.

It strikes me that the rationale that agricultural land can be protected by being put within a city, the city of London in particular, is a little like arguing that you're making love for virginity. I just don't understand the whole concept of "We're going to save the land by throwing it within a large urban municipality."

To me, the Ontario Ministry of Agriculture and Food did the single biggest disservice to the rural constituents when it made the presentation to Mr Brant—and I believe it's the ministry's official position—that boundaries don't protect agriculture; legislation does. It seems strange that when we talk about protecting something, we're always protecting something somebody else owns.

As the president of the federation of agriculture—the Middlesex federation; I haven't gone beyond that yet—I think it's important that the only people, the only sector of society, that can protect agricultural land are the farmers,

the people who own it. They will only protect it when it is worthwhile and they can farm it unhindered.

One of the most important things, in my mind, for agriculture is to be able to take the municipal concerns you have as a farmer before a council of peers, a council that understands your concerns, hopefully a council that knows exactly where you live and whether the problem you have is personality-based or drainage-based. There are a lot of things that can't be legislated, and it's attitude.

We have worked with the city of London to try to come up with some solutions that we think might represent agriculture and allow farming to carry on within the city of London. Doug has itemized those, and I believe everyone has a copy. We came in a little late. But it gets back to me that the Halton model keeps being put forward. I don't think it works. We're not dealing with a regional municipality here; we're dealing with a city that has a large area of farm land that will probably never be developed, by its own admission.

Representation by population is the ideal in our society, but it's based on the fact that the people within the constituency would be of similar social and economic backgrounds. We have rural municipalities for rural people and urban municipalities for urban people, and ne'er the twain shall meet, in my mind. There are very big differences between the levels of expectation. Carol has said that as rural people we tend to think two phone calls should do it, and those phone calls can be between the hours of 10 at night and midnight, and that's when your council had better be there and better be responding. I'm William the third, and William the second was the reeve, and there were a lot of wrong numbers between the hours of 10 and midnight.

Mr Veel has put forward an idea that bears some consideration. He's talking about equal representation on population within the annexed area. He'd like to see about three wards in the annexed 64,000 acres. That means three wards for 8,000 people. The city of London doesn't seem to be too enthusiastic about that. The idea put forward by the city of London really borders on insulting. They're talking about an off-the-shelf advisory committee—Doug explained it—that goes to this committee, goes to that committee and filters through a couple of levels of administration. That's not going to work. It's not very fast, it's not very effective, and at the end of it, you're going to hear, "I'm sorry, the councillor can't be with you right now."

By their own admission, their special projects and planning committee says, "This special committee has established a council to undertake reviews of the three matters mentioned above," those being commercial policy reviews, zoning reform and official plan review. It goes on to say, "It is anticipated that this committee will dissolve when these projects have been completed." That's the committee that they're going to have agriculture report to. That doesn't sound like a long-term committee with a long-term plan.

It's very frustrating. The other thing that they thought might work to represent agriculture on city council—there's a rumour that the Western Fair board was being considered. It seemed that they were already in existence, and they had some rural knowledge, you know.

The shortfalls in this committee structure were pointed out to Mr Hopcroft at a meeting in Irene's office. His response really offends me, and I think this is where we have real problems dealing with rural concerns in the city of London. He suggested that farmers would be heard because the best two rallies he had seen recently in Ottawa and Toronto were put on by farm groups and that the urban people had a nice warm feeling towards farmers, so you wouldn't want to tick them off anyway. So the rural community is being asked to give up representation by population and taking its concerns to a council of peers in exchange for our ability as activists and advocates and the nice fuzzy feeling urbanites have towards us. I find that insulting.

We're running short on time here, and I would like to have time to answer questions. I believe that an appointed advisory committee can never take the place of an elected council of peers. I don't understand the logic that some people have when they say, "I didn't like the township council I had, so put me in the city of London." One fellow said, "And if they start jerking me around, Bill, I'm going to phone you." That's not the way it works.

The way it works is that anyone should realistically be able to go to the council and be listened to. They should also have the ability, if they're really mad at their council, to stand and get elected and sit where either you people are sitting or the township councils are sitting. That is part of what we call our democracy, and I think it works reasonably well. We have two very different levels of expectations here, two levels of taxation, two levels of servicing. We've got two municipalities.

Any questions?

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The Chair: Thank you, Mr Irwin. We won't have time for questions, but we do have a comment from Mr Mills, the PA, and then you can comment back on his reply.

Mr Mills: I'd just like to refer to amendment 26. The bill is amended by adding the following section:

"57.1 The Minister of Municipal Affairs may by regulation,

"(a) provide for the creation, size, composition and functions of a rural issues advisory committee in the city of London;

"(b) require council of the city of London before passing a bylaw pertaining to a rural issue to consult with the rural issues advisory committee; and

"(c) define rural issues for the purpose of this section."

The Chair: Would you like to comment back, Mr Irwin?

Mr Irwin: Sure. That's a start, and I think we've been lobbying very effectively, but I don't think it addresses some of the concerns. First, you can argue that anyone can stand for election. It's an advisory committee. It's making comment to, and if you don't have a council that really understands your needs, you might as well make comment to these pictures on the wall. This is where we have to be careful, I guess. We might get a wonderful council, but I don't know. We haven't had a lot of luck.

The Chair: Ms Small, do you want to make a comment on that?

Ms Small: Yes. Mayor Gosnell might have something to say to you about that, Mr Mills, because the Middlesex farmer says, "Annexation destroys farm land but creates jobs." We don't think it, meaning agriculture, applies to the annexation talks. So much for city council.

Mr Irwin: It's very fine. You're talking legislation; we're talking attitude. I think there's a big difference. I applaud your endeavours.

The Chair: I'd like to thank you for appearing before this committee and for your brief.

BEN VEEL AND ASSOCIATES

The Chair: I'd like to welcome you here before the standing committee on finance and economics on consideration of Bill 75. I've got about six names here. Is there anyone else coming forward?

Mr Ben Veel: Yes, Mr Chairman, there will be later. As these people leave, the other people will come forward.

The Chair: Okay. You can take a spot at the end there, if they'd like to slip in the end there. But you can start. Would you please identify yourself from left to right so Hansard can pick up on who's speaking?

Mr Veel: We'll do that through the process as we introduce each person.

The Chair: Okay, that's fine.

Mr Veel: We appreciate the opportunity to present to you this afternoon some of our concerns. My name is Ben Veel. I am a long-time resident in the town of Westminster.

Annexation was not my choice, but a decision had to be made. Long-term planning is what I believe in: no Band-Aid solution, but planning for a future that amalgamates as equal partners the land of the town of Westminster with the services of the city of London. Bill 75 offers an opportunity of controlled growth into the 21st century.

I would like at this time to introduce our first presenters: Mr Bill Neville, vice-principal of Regina Mundi College, and Mr Tom Mulligan, chair of the parent advisory board of Regina Mundi College. Bill is immediately to my left and Tom is next to him. Go ahead, Mr Neville.

Mr Tom Mulligan: My name is Tom Mulligan, and I will start instead of Bill. Our support for Bill 75 arises out of our concerns for the safety of our children.

At the present time, those students attending Regina Mundi who don't have a full day of classes and either arrive late or leave late are obliged to take public transportation. Public transportation is approximately 4.5 kilometres from the school. It is on a very busy road. It has a great deal of commercial traffic. The road, for two kilometres, has an 80-kilometre-an-hour speed limit and for the bounds has a speed limit of 60 kilometres. They are obliged to cross through the entry to and exit from Highway 401, which is the busiest cloverleaf in the London area.

Because there are no sidewalks on this road, we feel that our children, the students, are at risk from the vehicular traffic. In addition, the road is bordered on both sides

by open fields. This, we believe, places them at risk from physical attack and even, as is occurring, as we all know, abduction.

The winter conditions only serve to compound the problems that we see. We believe that if Bill 75 is inducted into law the city of London and the London Transit Commission, which has shown itself in the past to be very aware of community needs, will be receptive to an application for extending public transportation as far as the school.

Thank you for your attention and consideration.

Mr Bill Neville: I'm Bill Neville, vice-principal at Regina Mundi, and on behalf of the students and the families in our school community I'd like to thank you for the opportunity to address you today.

Regina Mundi high school is one of four English high schools operated by the London and Middlesex County Roman Catholic Separate School Board. The school is located in a rural area south of London's current city limits. The student population is drawn from the southern portions of London and the surrounding area as well as southern rural communities in Middlesex county.

Some of the highlights of the history and population growth of our school would be these:

In 1960 the school opened as a junior seminary housing 100 people. In 1969 it became a private high school housing 210 students. The growth in numbers will be increasingly important. In 1983 we continued to have a boarding school but admitted grade 9 day students. Between 1984 and 1987 there was an addition of one grade per year, to the point where we have students from grade 9 through OAC. Current student population has reached 1,800 students; we're over 1,800 students.

Picking up on what Tom mentioned about transportation, there are concerns from an academic point of view as well. It's our hope, as a school administration, that the current annexation will include Regina Mundi. We look forward to a time when the London Transit Commission will extend bus service to the school and its area.

Extending the bus routes to service an expanded south London, including our school, would meet a number of student needs. At present RMC offers over 100 activities that must be operated outside of school hours. As well, the extra help provided by staff and peer tutors must frequently fall outside the regular school day. These activities are available to every student in the school. However, the students and their parents remind us that a large number of the students must experience high school without the benefit of these services because of transportation problems.

While RMC is located outside the city of London, it should be noted that over 70% of our students and 70% of the families in our community live within the current city boundaries and pay residential and commercial taxes to the city. We also see that the 30% who live in Middlesex county would make regular use of transportation services to the city of London.

The second area I'd like to touch on is the area of water and sewage treatment. Regina Mundi high school utilizes a private water supply and sewage treatment system.

In September 1990 MacLaren Engineers was retained by the Catholic schools of London and Middlesex to evaluate and monitor the operation of the sewage treatment plant serving Regina Mundi. MacLaren Engineers is responsible for maintaining sampling records, interfacing with the Ministry of the Environment and preparing an annual status report. The monitoring program also includes maintaining well water pumping records and performing quarterly analysis to determine the quality of the well water.

The water and sewage systems are 30 years old—there's one well—and these currently provide adequate service for the school population. However, the systems are operating at maximum capacity. The age and the demand on the system are of concern. The city of London water and sewage services would be most welcome.

The water supply for fire fighting has been deemed adequate by the appropriate authorities. The water source in emergencies would include the school storage tank which services the everyday needs of the school. It would also include access to the water in the adjacent ponds, feeding by gravity, to a water chamber beneath the west end of the school. Again, city of London water service would be most welcome. I know from conversations with the neighbours that city of London water and sewage service would be most welcomed by them.

There is a long-standing working relationship between the London and Middlesex RCSS board and the city of London. This relationship has been characteristically one of cooperation and combined effort. This effort has included the Regina Mundi facility and community. A good example is the common use of the school recreational facilities by both groups.

On behalf of the students of Regina Mundi high school, I thank you for hearing how annexation can benefit some 1,400 of our families who live in both London and in Middlesex county.

Mr Veel: Thank you, Mr Neville. I'd like to now introduce you to Harry Froussios of the Hellenic Community Centre.

Mr Harry Froussios: Mr Chairman, members of the committee, ladies and gentlemen, my name is Harry Froussios and I'm here on behalf of the Hellenic Community Centre.

Our centre is located on the south side of Southdale Road in the town of Westminster. The city of London boundary presently runs down the middle of Southdale Road. Because we are located within the town of Westminster, we are unable to be connected to city services which are located at our property line. The town of Westminster is unable to provide us with water and sewage services.

Our community, consisting of a substantial number of citizens, is planning to expand its present facility to include a church as well as implementing educational, social and cultural programs. Unfortunately, we are unable to do this due to a lack of important services.

So far as we are concerned, we support Bill 75 and urge you, the committee, to implement it as soon as possible.

Mr Veel: Thank you very much, Harry. I would now like to introduce you to Joan Norris, chair of the Lambeth Citizens Recreation Council.

Ms Joan Norris: The Lambeth Citizens Recreation Council is a community association representing 12 service clubs and athletic organizations. We formed in May as a response to the proposed annexation.

Our group of dedicated people was, and is, committed to maintaining our small-town spirit. We are a vital and active community where the goodwill between local associations works together to benefit Lambeth children and adults.

Our primary goal is to keep our special identity. We wanted this unique spirit to continue and felt through cooperation we could best protect our interests and foster our neighbourhood spirit within the larger city of London.

It was and still is a concern that even though John Brant identified our unique situation, the issue is not mentioned in Bill 75. It should be stressed, however, that working as a citizens group with the ongoing support of Mayor Ben Veel has been fruitful and rewarding.

The Chair: Excuse me. This will be on Bill 40. There's a 15-minute bell.

Mrs Cunningham: You guys can stay here. I'll go vote for you.

The Chair: It doesn't say up there. Okay, what we're going to have to do is recess until after the vote. You'll have your time after the vote.

Mr Veel: Approximately how long will it be, sir?

The Chair: We're looking to see if it's a 15-minute bell, but it could be only a five. It's only a five-minute bell.

Mr Mills: Twenty minutes.

Mr Veel: Twenty minutes; thank you very much.

The committee recessed at 1754 and resumed at 1823.

The Chair: I bring this committee to order again. Mr Veel, you've used up 10 minutes of your time. You've got 15 minutes left.

Mr Veel: I think we'll go back to Joan Norris. I informed her that she could start at the beginning and she informed me she didn't need my permission; she was going to do that anyhow.

The Chair: Okay; go ahead.

Ms Norris: The Lambeth Citizens Recreation Council is a community association representing 12 service clubs and athletic organizations. We formed in May as a response to the proposed annexation.

Our group of dedicated people was and is committed to maintaining our small-town spirit. We are a vital and active community where the goodwill between local associations works together to benefit Lambeth children and adults.

Our primary goal is to keep our special identity. We wanted this unique spirit to continue and felt that through cooperation we could best protect our interests and foster our neighbourhood spirit within the larger city of London.

It was and still is a concern that even though John Brant identified our unique situation, the issue is not mentioned in

Bill 75. It should be stressed, however, that working as a citizens' group, with the ongoing support of Mayor Ben Veel, has been fruitful and rewarding. The city of London task force on local government restructuring and the parks and recreation department of the city of London have been receptive to our request to maintain control of our recreation facilities.

We are currently working towards securing an agreement. I am confident our unique community will be able to be maintained. There has been a spirit of true cooperation evident in all our dealings with the city of London. We are anxious to work together to secure our citizens' future recreation.

Mr Veel: Thank you, Joan. Our next speaker was to be Mr Gene Ennis, but what we'll do is go to number 5, who is Pauline Nanni, a resident of South Winds subdivision.

Ms Pauline Nanni: Dear committee members, at this time I would like to offer a videotape to the committee of several citizens of the town of Westminster. They're representative of the agricultural community and the business community. Upon viewing the tape, you will see that they have had extensive community involvement over many years. The tape was made during the time frame of October 30 to November 2, 1992. The citizens were aware of Bill 75 and its contents and wished to make some concerns known before the bill moves to clause-by-clause analysis and final reading.

The input of many hundreds of citizens, presumably with similar concerns, could have been accumulated for this tape. I was directly involved in presenting a petition to the town of Westminster council on May 11, 1992, that asked council to cooperate with the Ministry of Municipal Affairs in setting up effective transition teams for annexation.

The petition, unanimously passed by council in a recorded vote, had 1,357 signatures obtained over a 13-day period, 365 of whom were farmers from the rural areas of Westminster. If time had permitted, many of those people would have gladly offered their final concerns over Bill 75. I am confident they would have echoed the sentiments of those on the tape. Please give your fullest attention to all recommendations on the video as you complete clause-by-clause examination of Bill 75.

Mr Veel: Thank you, Pauline. I'd like to now turn it over to Mr Gene Ennis, a long-time resident of Lambeth, which is in the town of Westminster.

Mr Gene Ennis: There's going to be some overlap between the previous speaker and myself. That's not an oversight on our part. It's our way of underlining what we want to communicate to you.

You, Mr Chairman, members of the committee, ladies and gentlemen, and I have heard many, many presentations from many, many people claiming to speak for the citizens of Westminster. My purpose in presenting this information to you today is to present to you what many of my fellow citizens have indicated in writing, some 1,300 of them, people of Westminster.

I wish to present to you with a copy and an analysis of a petition that was presented to the council of the town of Westminster last May. The nature of this petition has a

background. A number of citizens had been concerned with council's negative attitude towards setting up a transition team and dealing with the arbitrator's report. A meeting was called and people were asked to bring a friend.

The petition wording, a copy of which you have before you, was drafted by consensus and a vote of the people present at that meeting. Views voiced ranged from total agreement after stalemates for such long periods of time, to resignation to the situation, to disappointment but wanting a look towards the future.

These citizens then circulated this petition for a period of only 13 days. Verbal responses from the canvassers indicated widespread support for the need to work cooperatively with the Ministry of Municipal Affairs during the transition process. This support was evident in rural and urban areas alike.

I brought forth a motion to council that spoke to this petition, and council voted to cooperate with the Ministry of Municipal Affairs in the matter of transition in order to ensure that all the interests of the citizens of the town of Westminster are protected. Immediately following this, council voted to appoint a representative to the transition steering committee other than the head of council or his/her designate.

Going to the analysis of the petition, you have the figures, you have the areas from which they were taken. I only want to emphasize time and time again that of the 1,335 signatures, 364 came from residents outside the urban areas of Westminster. The 1,335 signatures were from residents of Westminster, not of London, not of Middlesex county per se and not outside the area. They were from residents of my municipality. Some 364 of those signatures were from rural residents. We have the breakdown there for you. We also have the breakdown by ward of the urban area.

Going back to the beginning, it is my purpose to present to you from my fellow citizens—not from what I think my fellow citizens want, but from what they themselves have signed—and you have the copy of the petition before you.

1830

Mr Veel: Thank you very much, Gene. Two issues that must be addressed and remain unresolved I would like to bring to your attention. The first one is representation. Other people today have already alluded to it. Now is the time to put in place a plan that will accommodate the projected future growth. Most of this growth will occur in Westminster. We must recognize this need and create a new ward within the city boundaries consisting of the merged areas of Westminster.

The buffer zone is the most unpopular item in Bill 75. Again, we are dealing with a Band-Aid solution. Long-term planning is the key to controlled growth. When the official plans of the city of London and its neighbouring municipalities have been approved, the buffer zone should become redundant that same day. These two items need to be addressed in Bill 75.

I would like to thank you for the amendments that you have proposed, as they meet many of our concerns,

concerns raised by our citizens at public hearings and discussed at transition committee meetings.

Thank you very much for your attention. We'll be glad to answer any questions you may have. We brought a number of people. Some of the people have an asterisk beside their names. If you'll notice, almost all of them are farmers and they're spending 24 hours drying their beans right now. Most of those farmers are actually on the tape you will be receiving, so you're not losing their input.

The Chair: Thank you. What we do have is about three minutes for each party. We'll start off with Mr Eddy.

Mr Eddy: I'm not clear on Mayor Veel's statement about the buffer zone. Did you say once the official plan is in place for the town, once it becomes part of the city of London, that the—would you repeat what you said about the buffer zone?

Mr Veel: I can repeat, but I can explain better, I guess.

Mr Eddy: Okay, please.

Mr Veel: What I am talking about is that the buffer zone requirement is a result of negligent planning right now, so it's a Band-Aid. Once the county, which has to come up with the plan, and the surrounding townships and the city, which has to come up with the new plan—planning is one of my serious concerns that needs to be addressed more seriously. Once they have been put in place and approved by the ministry, then obviously the need for a buffer zone is redundant, because hopefully they'll address the concerns that we have in the buffer zone now. If we're not going to address that in planning, we're doing something wrong.

Mr Eddy: So that's your request to the government?

Mr Veel: Yes.

Mr Eddy: Has it been submitted yet or is it part of your presentation?

Mr Veel: Actually, we have consensus of that, even finally with the mayor of London. He concurs with the same view. We brought it up at the steering committee, and Mr Riddell will be bringing it to the minister's attention.

Mr Eddy: I see. So that's a request you have of the government?

Mr Veel: Very much so.

Mr Eddy: We'll try to support that. The other point was about making the town of Westminster a ward. That would be following the next municipal election in London. The town of Westminster and the annexed areas would become a ward and not be worked into other wards—or what was your viewpoint?

Mr Veel: London has anywhere from a 45,000- to a 65,000-people ward.

Mr Eddy: Yes.

Mr Veel: If we go in there—and I don't need to repeat what Mr Irwin and Mr Duffin said; they were very eloquent in their presentations—there's a difference.

My view is that this is a unique situation that requires representation by population of the annexed area. We would prefer more than one ward, for example, a ward in West Nissouri and London township. Those areas could be ones that are being amalgamated. We'd like three, but you probably think that's unrealistic.

That's why I put in here that we would like to be at least a separate ward and considered, that we don't lose our identity by being absorbed with 6,500 people into some huge London ward where we were would have absolutely no representation.

Mr Eddy: May I ask then, has that been presented to the government and has there been a response to that?

Mr Veel: The city of London cringes every time I bring it up. However, I'd like to point out that there is already an example of it, being Sarnia-Clearwater.

Mr Eddy: Okay.

The Chair: We go on to Mr Sutherland.

Mr Sutherland: I just have a question for Ms Nanni regarding the South Winds issue. Could you give us just a bit of update of where that stands right now in terms of the problems being corrected?

Ms Nanni: As I left my house this morning, I had to walk down the street to get in my car because the equipment is in the subdivision putting in the sanitary sewer lines in the streets. We don't know when the hookups will be to the homes themselves. My particular lot has been an example of sewage rising to the surface in the backyard three months after I moved in. The Environmental Appeal Board has written a summation of what it feels about our lot, and it's just a scathing condemnation of planning and of the approving bodies.

Ms Mathysen has one, as well as the Minister of Municipal Affairs, the Minister of the Environment and Premier Rae. We are an example of a place that should never have been built on the kinds of services that are there. Long-term planning and full municipal services should have dealt with us in the very beginning.

The Chair: I'd like to thank you for appearing before this committee. On Hansards, I had quite a few calls in my office from people who are sitting out there. If they could call the clerk's office, as soon as they're ready on the sittings today, maybe your office can fax them out.

Thank you for attending the committee here.

Mr Veel: Thank you very much.

The Chair: I was just talking to the clerk. We can arrange a day to see the video before the clause-by-clause which is mutually agreeable to all the committee here. We'd like to have a subcommittee as it is right now. This committee is adjourned for today.

The committee adjourned at 1837.

Substitutions / Membres remplaçants:

- *Cunningham, Dianne (London North/-Nord PC) for Mr Sterling
- *Eddy, Ron (Brant-Haldimand L) for Mr Phillips
- *Ferguson, Will, (Kitchener ND) for Mr Jamison
- *Grandmaître, Bernard (Ottawa East/-Est L) for Mr Kwinter
- *Mathysen, Irene (Middlesex ND) for Mr Christopherson
- *Mills, Gordon (Durham East/-Est ND) for Mr Wiseman
- *Wilson, Gary (Kingston and The Islands/Kingston et Iles ND) for Mr Ward
- *Winninger, David (London South/-Sud ND) for Ms Ward

*In attendance / présents

Also taking part / Autres participants et participantes:

- Mills, Gordon, parliamentary assistant to the Minister of Municipal Affairs
- Riddell, Brian, assistant deputy minister, municipal operations, Ministry of Municipal Affairs

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

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Joan Norris, chair, Lambeth Citizens Recreation Council	
Pauline Nanni, resident, town of Westminster	
Gene Ennis, councillor, town of Westminster	

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ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 19 November 1992

Standing committee on finance and economic affairs

London-Middlesex Act, 1992

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Jeudi 19 novembre 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur London et
Middlesex



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 19 November 1992

The committee met at 1007 in committee room 1.

LONDON-MIDDLESEX ACT, 1992

LOI DE 1992 SUR LONDON ET MIDDLESEX

Resuming consideration of Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex / Loi concernant les annexions faites à la cité de London et à certaines municipalités du comté de Middlesex.

The Chair (Mr Ron Hansen): Good morning. Welcome to the standing committee on finance and economic affairs; today, Thursday, November 19, 1992, Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex. We have nine different groups coming forward today. This will be our last day of hearings.

WEST NISSOURI RATEPAYERS

The Chair: The first group we have coming forward is the West Nissouri Ratepayers. Would they come forward, please. Sir, would you like to identify yourself for the purposes of Hansard. We have until shortly after 10:30. After your presentation, leave some time for questions from the members of the committee, please. You may begin.

Mr Crispin Colvin: My name is Crispin Colvin, resident of West Nissouri township in the county of Middlesex.

I would ask this committee to consider the following regarding the fate of West Nissouri if Bill 75 comes into full effect. I would also ask the committee to urge the implementation of these reasonable alternative proposals.

The area of West Nissouri to be annexed represents approximately 4% of the township. The tax loss represents 40%, approximately. This raises doubts about Minister Cooke's statement that no municipality shall be hurt by this annexation. I therefore urge you, members of this committee, to heed this concern and to make the necessary adjustments, while noting that senior ministry staff have suggested that no changes will be made at this point by this committee. If this is actually the case, we are wasting both time and taxpayers' money on a charade. I trust this is not the case.

West Nissouri, under the current legislation, will be forced out of existence due to bankruptcy. The fallout of such devastation would result in the loss of community identity and spirit, job losses for municipal employees, a decline in local government efficiency, a loss of service levels, and escalation of costs due to a larger and more inefficient bureaucracy, as well as the loss of future programs, services and potential local development that can be more effectively delivered under the current municipal structure.

This demise of West Nissouri would be not unlike the loss you would feel if your riding were dissolved at the

next election. The loss of representation, the services you offer and the efficient delivery of those services to your constituents would be lost.

If you allow the city of London to take over the lifeblood of West Nissouri, the airport lands and the businesses associated with it, then you will be allowing the city to remove approximately 40% of the township's tax base. This cannot be replaced within a 5-to-10-year period but would in fact require several decades of development, all on full services, as required in the township's official plan. This would require substantial funding which the municipality does not have, nor will it have under the current compensation proposals.

In order for the township to remain viable, the airport lands and the associated businesses therein must remain as they are now, an integral and necessary part of West Nissouri. The majority of the operating capital for the township is derived from the airport lands. This has allowed the municipality to remain agricultural, with little need for commercial or residential development.

Ministry staff feel that the only problem appears to be the federal grant in lieu of taxes. This is not the case. Certainly the federal grant is important, but no less important are the revenues generated from the businesses and residential properties within the proposed annexed area. This point appears to have been lost on ministry staff.

The minister has stated that no municipality will suffer from this annexation. There is no doubt that West Nissouri will suffer: effective January 1, 1993, our township will have lost almost half of its tax base, and in return we will receive a proposed compensation package that is inadequate to fill the gap created. A further erosion of this compensation will occur when West Nissouri will be forced to pay the city for assets to which it has no just claim under the 40-year-old Cummings principle.

If annexation is to have no financial impact, compensation should reflect assessment loss and asset loss recovery. This could be done by a minister's order. If the disposition of assets and liabilities relies entirely on the Cummings principle, then West Nissouri will lose approximately 20% of all the municipality's assets. According to the Ministry of Municipal Affairs, calculations for the Cummings principle is based on assessment.

Since the city of London has no interest in our physical assets, it will take a cash-in-lieu settlement. The net result will be that West Nissouri will have a loss of compensation rather than zero impact, as the minister has stated. If the minister is truly interested in having West Nissouri remain viable beyond the current five-year time frame that is proposed, then this committee, the government, the minister and his staff must look at alternative proposals.

One such proposal is shared services. Some would argue that shared services do not work. This would at best be a

statement from an uninformed source. Shared services do work and in fact have been in place in West Nissouri for many years. The airport receives both sewer and water service from the city of London. Ideally, the lands surrounding the airport should be left as they are now to produce the food that you and all Ontarians require. This would further alleviate another concern brought to world attention not so very long ago.

We can all remember the tragedy of the El Al cargo plane crashing in Amsterdam. The same fate could befall a number of Canadian cities due to the proximity of businesses and residences to the airports. London is in the enviable position of being able to avoid a tragedy of this magnitude. To leave the land surrounding the airport in a state of agricultural production is a far greater and safer use of the land with less opportunity for disaster.

Such problems as noise created by the arrival and departure of aircraft is non-existent if the land were to be left in agricultural production. Once this land is developed and engulfed by a larger city with an insatiable appetite, discontent and complaints will appear that do not now exist. Noise abatement laws will be required, more emergency response and planning will be needed and the need for an airport curfew—currently one of the airport's main attractions—will be a requirement.

Should development be perceived as a greater need than food production, then the township of West Nissouri should be permitted to work in cooperation with the city of London to ensure proper and controlled development of airport lands within the township. This would ensure mutual respect, currently lacking under annexation. This could be accomplished, as it is now, with shared services.

The city of London had reached agreements with neighbouring municipalities prior to the appointment of an arbitrator. One of these agreements was for shared services, and one with West Nissouri in which the city indicated that it was no longer interested in any part of the municipality. Minister Cooke put West Nissouri and the airport lands on the table.

If West Nissouri must lose its tax base, then I urge the committee to encourage, through legislation, that which the city has already proposed in previous boundary negotiations: cooperative servicing. Our municipality would receive these services only on a user-pay basis. This would allow for orderly growth on full services on the airport property and adjacent lands. This would be beneficial to all. Once implemented, both the city and the township would be winners.

The city would not have the burden of paying for the full cost of servicing the lands, this in addition to the other demands that will be placed on it due to annexation, but would work in partnership with its neighbour, with the result that all would share in the rewards. The city would receive the associated spinoff benefits related to this growth. These would include an increase in population, the requirement of additional businesses to support the population and the economic and employment benefits that this would bring to London.

The township of West Nissouri would have no need to develop, and the erosion of valuable agricultural land

would be offset. West Nissouri would be able to maintain its rural character without compromising the county, the city or the township. In fact, many associated businesses may well locate within the city, to add further to the city's economic growth.

All of this could be accomplished without bankrupting a neighbouring municipality that has been a part of and contributed to the success of the county and the province since 1851. This would involve only a minor amendment to Bill 75, removing the 4% of West Nissouri land and in so doing reinstating the 40% tax base. This is in keeping with what Minister Cooke has already stated. The township of West Nissouri should suffer no loss of land or assessment. In short, West Nissouri lands should be removed from Bill 75.

Failure to implement this minor change would leave this committee, if one aspect of your mandate is to ensure that no municipality suffer, only one alternative: a substantial infusion of funds from an already financially troubled province.

To ensure the long-term viability, beyond the minister's five-year plan, of the township of West Nissouri, Bill 75 must include a fair compensation package. To date, this has not been offered. Compensation figures have been discussed, but no firm amounts have been presented. West Nissouri would need to have full compensation in perpetuity for loss of assessment. The township of West Nissouri would therefore require compensation equal to its 40% loss of tax base. Anything less will result in bankruptcy for the municipality or, at best, a slow financial death.

A five-year stay of execution, as proposed by the ministry, is of little value to the government and would be a disservice to and perceived as a rejection of the citizens of West Nissouri. This would be contrary to the minister's statement that no municipality shall suffer.

Should the compensation in perpetuity be unacceptable, then this committee may wish to investigate a one-time lump sum payment to West Nissouri. A figure suggested by, but not committed to, a ministry official was that of \$6.5 million. That may well be a figure acceptable to the municipality to ensure its viability. However, at today's costs, this would not cover the cost of a sewage treatment plant capable of allowing for the development required to recoup the 40% loss of taxes. Perhaps this figure should be considered a starting point rather than a fixed number. Should the figure of \$6.5 million appear too great, I can only wonder what value you would place on a municipality, the value of its products and the value of its citizens. Surely they have a far greater value than \$6.5 million. A government that prides itself on taking care of people should surely consider this as a small yet important investment.

The township of West Nissouri deserves at least this in order to provide for its ratepayers and its employees. This cannot be perceived as anything more than just compensation. Since the government has seen fit to offer \$14 million for snowmobile trails, there must be funds available to fulfil the promise of the minister that no municipality shall be hurt by this annexation. I urge the committee to allow

West Nissouri to survive, to grow and to be master of our house.

Remove West Nissouri from Bill 75, as London city council unanimously agreed to do in November 1988. In fact, the opposition to this massive annexation comes from many sides. The schools boards are opposed, the Ontario Federation of Agriculture is opposed, the abutting municipalities are opposed, the county of Middlesex is opposed, Women for the Support of Agriculture is opposed, many MPPs of all parties are opposed, many groups from within the city of London are opposed, professors from the University of Western Ontario are opposed, land use planners are opposed, and many with the city of London council are opposed.

Who is in favour? Developers, builders, the real estate board, speculators and politicians who are unable to see the future.

There is a great need for preservation of our lands, our communities and our ability to be self-sustained in food production. I would hope that this committee will see the folly of this annexation, the destruction it will impose on families, communities and the province as a whole. I ask you to use good judgement, reason and common sense.

To allow an annexation of this magnitude is dangerous for Ontario and a regressive step. It is not productive but is counterproductive. It does not allow for survival but only for takeover. As a government which prides itself on care for those who are bypassed in society, which speaks for those who have no voice and for those whom no others will represent, I urge you to follow the doctrines set out by Douglas and Woodsworth.

1020

Do that which is philosophically, morally and consciously correct. Allow West Nissouri to survive, whether through a substantial compensation package or through the withdrawal of West Nissouri from the legislation. Failure to implement either of these solutions will mean that this government is no different from any of its predecessors or indeed that which is in power in Ottawa. Let us show the province and the nation that all governments are not tarred with the same brush. It is time to be decisive, strong and to represent those whom it professed to represent when in opposition.

Allow West Nissouri to be the master of our house. Allow the voice of West Nissouri to be heard and not extinguished. Remove West Nissouri from Bill 75.

The Chair: Okay, I guess we're ready to take some questions.

Mr Ron Eddy (Brant-Haldimand): Mr Colvin, thank you for your very thoughtful presentation. I must say it's very thoughtful and indeed thought-provoking. Your alternatives are welcome and should be considered. I hope they will be considered.

I agree with your viewpoint that this is detrimental and disastrous to the township of West Nissouri, especially when it's brought about by a Minister of Municipal Affairs who, from my view, should be speaking for all municipalities, not giving everything to some and skewering others. That's most unfortunate.

Do you know any reason, any advantages to Crumlin airport—it's now London Airport of course—being annexed into the city? Is there any advantage, given that there are full city services now, urban services? I understand they were granted by permission of the council of West Nissouri, but are there any advantages that you see to having the airport that adjoins the city annexed to the city?

Mr Colvin: None whatsoever. The airport serves the region. The airport is federal property. The airport has been something that belongs to everybody. It belongs to everybody in the county; indeed it belongs to everybody in the province and the country. There is no sane reason to make it part of one municipality over another.

Mr Eddy: The township of West Nissouri cannot tax the airport, but there is a federal tax grant in lieu to the township. I suppose if it goes into the city, then the city would get that. I'd like you to comment on that. That, I imagine, will be continued. You said the services are presently being paid for to the airport by whom?

Mr Colvin: The federal government has the arrangement in terms of servicing with the city, but the grant in lieu covers approximately the deficit of London's new indoor swimming pool. To them it's a very small amount of money; to us it is our very lifeblood.

But it's not just the grant in lieu, and this is what the ministry, I think, has failed to realize. The grant in lieu is part of the cash that we require to operate our municipality, but the associated businesses that are located on that property also provide business tax to the municipality, which is also a substantial portion of our funding. It is both.

Mr Eddy: You mentioned that the Minister of Municipal Affairs had put West Nissouri back on the table. I appreciated knowing about that. I think what happened initially is that the city of London council passed a bylaw to annex the airport, subsequently withdrew that bylaw and said, "Not at this time," or something. Do you know why Mr Cooke made that decision? Did the council or the township of West Nissouri have any input into that decision in any way at any time?

Mr Colvin: The minister put it back on the table without our knowledge, without council's knowledge, as far as I know. Why? Lord knows. The city of London removed it with the proviso that it may wish to discuss with West Nissouri annexing lands at the airport at a future date. In our presentation to arbitrator John Brant we made it quite clear that we were prepared to discuss with the city whether the airport should be put back on the table.

We were prepared to negotiate with the city one on one, and the minister has subsequently said: "No, West Nissouri, you don't have that right, you don't have that voice. We're taking that away from you. It's back on the table because I say so." We haven't had the opportunity to really fight for our airport.

The Chair: Okay, we have to go on.

Mr Gary Carr (Oakville South): I appreciate your presentation and the thoroughness with which you did it. In it you seem to be talking about the financial package as a big part of it. I know at the very end you say to remove

West Nissouri from the bill, but in it you seem to be talking about the compensation. I was getting the feeling, and this may be wrong, that if you got the right type of compensation, you would then be pleased with it. That isn't your understanding. You want to be removed from this bill, regardless of what the compensation is. Is that correct?

Mr Colvin: To be pleased with the annexation would be the furthest thing from my mind. Our first choice, anybody's first choice, would be to leave us alone, because we were initially left alone. If we absolutely must, if there is no alternative in the minister's eyes but to strangle our municipality by taking away our financial lifeline, then the only alternative is a substantial package in perpetuity to make us viable.

He keeps saying, "You will be viable," but his vision of viability and my vision of viability are substantially different. His vision of viability is five years; mine is life. It's like saying: "You have cancer, but you'll be okay. You'll live for five years." But in five years you're dead, and that is what the municipality is facing right now.

Mr Carr: You're actually getting a double whammy, if you will. You get the one hit by being included, and when they do include you the compensation package—the minister isn't here, but his parliamentary assistant is. I'd be pleased if the parliamentary assistant would, on behalf of the minister, want to speak on why the minister put West Nissouri back on the table. They haven't had an answer. You don't get a chance to speak to the minister, but you've got the second in charge. I'd be pleased if the parliamentary assistant would like to answer that.

Mr Gordon Mills (Durham East): I'd just like to talk about what the minister said and what was in the minister's mind. I'm not in his mind and I wasn't there when that was discussed. There's been a statement made that they're not going to be compensated for the loss of airport and industrial assessment. I'd just like to say that the airport revenues are of course a federal grant.

The ministry staff met the steering committee last Tuesday. West Nissouri will be compensated for loss of grants and commercial and business assessment from the airport for five years. The precise amount of this compensation is still being determined, because we need to know. You will get, sir, compensation based on 1992 grants and assessments. At the moment we don't have the full 1992 grants and assessments to work out that package, but that package is coming. It's a fact.

Mr Carr: I would be prepared to give my time up to Mr Colvin to reply in a statement and see if in fact this jibes with what you've been hearing. How would you like to comment?

Mr Colvin: Thank you. I'd be delighted to respond to that. The loss of grant, as Mr Mills has said, will be covered for five years. Again, Mr Mills, if your constituents were told that they were no longer going to have a representative in five years' time, your constituents would be very upset, and rightly so, as our constituents are.

The amount is yet to be determined. We've been asking for clarification from the Ministry of Municipal

Affairs at the steering committee level, at the council level and at the level of our clerk and treasurer since approximately May, when these hearings started, to determine how the compensation was going to be paid, what the basis of the figures was.

We've been told, "We're using the 1989 assessment rolls," and then, "We're using the 1991 assessment rolls." Now we're being told that it's the 1992 assessment rolls and the package is coming. I'm sorry to sound flippant, sir, but Christmas is coming too, and it will be here before the package is determined.

We haven't really got a lot of faith, because we haven't been told or given anything that we can take to the bank, that we can take to the residents.

The Chair: Okay, Ms Mathyssen.

Mr Carr: Any more time?

The Chair: No.

1030

Mrs Irene Mathyssen (Middlesex): I have a number of questions. First, West Nissouri employees are concerned about job loss. Has there been any accommodation made for West Nissouri employees, and what problems do you see there?

Second, let's say that the Tooth Fairy brings you this great big bundle of money so that West Nissouri could continue and you have to develop to make up the tax base that is lost. Where will you develop? Do you have enough industrial-commercial developable land in your current official plan to make up that tax base, or are you going to find you're going to have to broaden development on to land that is currently agricultural? I'd like to know how coservicing works. You said it does work. I'd like you to explain how coservicing works.

The last question: You said that if the airport lands remain in West Nissouri, you can ensure that those lands will remain agricultural, so the noise and the disaster precaution is there. How do you know that land won't remain agricultural if London has airport lands?

Mr Colvin: Perhaps I'll start with the last question first. London has said that it wants the airport lands precisely for the reason of development, so it's not interested in keeping the airport lands or any of the lands around there agricultural. In fact, what's within the city boundaries now has a number of for-sale signs—some of it's sold—and they're all advertising it as good industrial land. So their intent to keep it agricultural, if they say that, is dubious at best.

To go back to question number one, the job loss question, we made our employees redundant in June, I believe it was, as per the technical committee's work plan. We have followed the guidelines as the municipality set out by the technical committee, by the steering committee. Now we have the ministry staff and the city of London acting in collusion, saying, "We don't want to give West Nissouri employees offers of employment because it would make you a non-viable community."

Well, we're a non-viable community as it stands now. If we have compensation for only five years, we'd become non-viable in five years. That is hardly any kind of security

for an employee but in fact a major source of insecurity and stress. There is no reason our employees couldn't be given job offers, none whatsoever.

In terms of development, if we got a lump sum and the Tooth Fairy came, we have some developable land that has been designated for a growth area, particularly around Thorndale. In terms of recouping 40% of our assessment loss, we probably—I'm guessing at this—would think that we would have to expand the amount of developable land that we would have to develop, therefore taking more land out of production.

West Nissouri has always been a rural municipality. We've been able to afford to do this because we've had the funding from the federal properties, from the airport lands. Once that is stopped, we would have to perform like everyone else: We're going to have to start paving over good land and reducing the number of farms, hence making Ontario probably no longer self-sufficient in food production.

In regard to coservicing—the way I look at it anyway and perhaps it's simplistic—I'll use the analogy of Hydro. We all pay Ontario Hydro for our utilities, for the electricity in our buildings, for the electricity in our homes and on our farms. We don't pay for the easements and we don't pay as individuals for the hydro lines going down the road, but we do pay through collective taxation and it's done for the good of all.

This can be the same type of program in coservicing. The township could pay on a user basis. We don't have the staff or the equipment to put in sewage pipelines. We would have to contract out, if we had that kind of funding. But we would pay based on what we're using. We would have to set up reserve funds so that we could set aside moneys for servicing, upgrading and maintenance of any sewage and water facilities that would be required. It can be done on a cooperative basis instead of what's good for the big guy is good for the big guy and the rest of you can go to the devil, because that, as it stands, is the way it is operating.

Mrs Mathysen: Okay.

The Chair: Mr Mills, you have some closing comments?

Mr Mills: Just a quick comment, and thank you, Mr Colvin. I'd just like to point out that the reason 1992 was chosen as the year for the assessment was because the ministry feels that is the best year for you to be assessed, for it to be worked through.

Mr Colvin: May I respond to that, sir, just quickly?

The Chair: Okay, a quick response.

Mr Colvin: I agree that perhaps 1992 would be the best year; that may well be. But unfortunately, what will happen is the bill will be passed long before the assessment rolls are done and at that point, when we find the flaws in the ministry calculations, as we will, then it's too late to do anything about it, because what'll happen is they're going to hide under the fact that: "Well, I'm sorry, it's law. We have to live with it."

The Chair: Thank you, Mr Colvin, for appearing before the committee.

LONDON AND ST THOMAS REAL ESTATE BOARD

The Chair: The next group to come forward is the London and St Thomas Real Estate Board. I'd like to welcome you before the standing committee on finance and economic affairs and on Bill 75. The clerk will hand out your brief and if you wouldn't mind introducing yourself for the purposes of Hansard and this committee, you may begin.

Ms Nancy McCann: Good morning. My name is Nancy McCann and I'm the chairperson of the political action committee of the London and St Thomas Real Estate Board. As a representative of the board, I speak for some 1,450 real estate professionals and it is as their representative and on their behalf that I speak to you today.

Realtors don't just sell houses, commercial property or industrial property, they sell cities. As long as London is a great place to live and work and raise families, as long as it is affordable and safe and well serviced, it is easy to sell. Why? Because people want to stay and people and companies and industries want to leave other cities so they can move to it.

If, on the other hand, London should become a bad place to live and work and raise families, if available housing within the city limits should become overpriced while services in outlying suburbs prove inadequate and environmentally unsafe, then it becomes no longer nearly so easy to sell London and naturally we, as realtors, don't want to see that happen.

In the early 19th century, London proper was bounded on the south and the west by the two branches of the Thames and by Queen's Avenue on the north and Wellington Street on the west. Not so long ago, Wortley Road was the hub of Wortley Village rather than the pleasant street in the old south that it is now. The reality is that London has been doing nothing but growing for the last 150 years. In fact, before the 1960 annexation, the new office of the London and St Thomas Real Estate Board on Commissioners Road would have fallen outside the city limits of London.

Growth is not bad. What's more, growth is inevitable. What is bad is not planning intelligently for that inevitable growth and that, in our opinion, is more than bad, it's irresponsible and, because unintelligent planning will adversely affect the quality of lives of everyone living and working in the area, it's also culpable.

Annexation is good for London and for the townships it proposes to annex. Annexation is good for London because it will keep the supply of affordable, well-serviced homes ample. Right now, London is very affordable compared to the rest of Ontario. In fact there are 12 other centres in Ontario where the average house price is higher, sometimes considerably higher, than our average house price.

What happens if annexation is not implemented and growth is constrained? Probably house prices will go up. You might think that would be good for realtors—the more expensive the house, the higher the commission—but realtors are not interested in short-term gain, we're in it for the long term.

We want as many citizens as possible to own homes and we want them eventually to get to a point where they

can own their dream homes. That can happen for a number of people in London in 1992. That will continue to be able to happen for a fair number of people in London in 2015, if annexation is implemented. Where it doesn't happen is in cities like Toronto, where the average house costs \$234,313. Our average house price in London for 1991 was \$134,545. That's \$100,000 less.

What happened? Well, approximately three to four years ago, London realtors were selling many homes to Torontonians fleeing the city. That was before the market adjusted. Now there are a lot of unhappy Torontonians in houses which are worth in excess of \$300,000, at least on paper, which no one is buying. We would hate to see that happen in London.

As for the townships London proposes to annex, annexation can be good for them too. Unless they plan to pack themselves up lock, stock and barrel and move on down the road a piece, they're going to absorb London's inevitable growth. That's not really a question. Those new people who are going to be moving into London and hopefully those new businesses and companies that are going to be starting up or relocating here are going to need to have land somewhere, whether it be in the suburbs and industrial parks, inside the city limits or outside.

What is at issue is how well those suburbs and industrial parks are going to be serviced, and it's our opinion that the more intensified development advocated at the provincial level is more likely to occur within city boundaries with controlled planning and has traditionally resulted in the townships. This is the real crux of the matter: Which municipality has an adequate tax base to furnish the infrastructure necessary to accommodate our inevitable growth? The answer has been, and it remains, London and only London.

1040

[Interruption]

Ms McCann: I'm going to cite the by now infamous case of South Winds, a residential development which falls within the city limits of Westminster and outside the present city limits of London. Unfortunately, the septic system and lot size provided for the development was just not adequate and, as a result, residents have sewage bubbling in their backyards. Let me tell you, besides being environmentally undesirable, sewage bubbling in the backyard does not make for much of a selling point for any home.

That impacts negatively on our area in two ways: It discourages development and the boost to the economy that development brings, and it also increases the likelihood of environmental problems. Clearly, if the services available are inadequate to deal effectively with things like waste, development is not going to be environmentally sound.

As for the fears of the citizens of Westminster that their taxes will be higher if annexation is implemented, I understand that they're currently spending twice what they're paying in taxes for sewage disposal and, to date, Westminster has no police department and only a part-time fire department.

When they take on the financial burden of policing and safeguarding against fire, their taxes will increase.

[Interruption]

The Chair: Excuse me, there are going to be all points of view here, but everybody has a chance to put his point of view across, so I wouldn't like the laughter and the heckling to go on.

Ms McCann: A number of members of our association come from and do business in the townships in question and that's why the real estate board didn't jump on the bandwagon the first time the annexation issue was brought up. Because of our members' very divergent interests, we've had to think long and hard about this issue.

We understand that the separate townships want to maintain their individual character, identity and tax base. We understand their desire to retain autonomy over their affairs. However, it is not as if these townships plan to remain rural havens. The Shasta plan, submitted by the city of Westminster, projects a higher population density for that township than the one projected for the city of London. Clearly, the authors of that plan don't envision Westminster as the Mayberry of Canada.

A fact that seems to have escaped a lot of people is that much of the farm land that people are concerned about preserving as farm land has already been bought up by developers. The fact that it is still farm land is due to the freeze placed upon development, not because it hasn't been wrestled from the possession of beleaguered farmers. The minute that the freeze is lifted, annexation or no annexation, that farm land is going to disappear. What is at issue is whether the development that's going to take place on that farm land is going to be adequately serviced or whether South Winds is going to serve as the paradigm for all development outside the city limits.

Let me recap some of the points we feel are important on this issue.

Long-term planning and intensified controlled development are necessary. The city is the only tax base capable of providing the necessary infrastructure for this future growth. Boundaries, as they are now proposed, provide for watershed planning, proper sewage treatment and waste disposal and long-term controlled planning, making it environmentally sound.

From the fiscal responsibility standpoint, a one-tier municipal government system would be less costly to administer than a two-tier regional system and should streamline the approval process for development land, thereby reducing the cost of the same to the end user. It is fiscally responsible to make the boundary adjustments such that annexation need not be repeated in a 10- to 15-year time frame.

We all want economic recovery, London and the townships alike. We all want the prosperity that will come on the heels of that economic recovery, and growth will give us both economic recovery and prosperity.

We also want a high quality of life and that necessitates planned growth. Annexation will give us planned growth. For that reason, the London and St Thomas Real Estate Board, in the best interests of the community its members

service, supports the annexation of enough land to provide for our city's commercial, industrial and residential growth over the next 20 to 30 years. Let's do it once and for all and let's do it as expeditiously as possible.

The Chair: Thank you.

We'll go on to the third party. Questions?

Mrs Dianne Cunningham (London North): First of all, thanks for coming and presenting your point of view. It's true, as the Chairman said, that there are many divergent points of view on this, but I think the one consistency through the whole thing has been the process itself, where—I think rightfully so—most have been concerned about that with regard to the appointing of the arbitrator.

I think, more consistently, one of the arguments against annexation—I don't think there are as many who would say no annexation at all—has been the process and the size of the annexation. I'm just wondering if your group had commented on that at all.

Ms McCann: Only so far as my last comment, in that the boundaries as they are laid out now do provide for the watershed planning which is going to be an important issue for the future. It allows for the landfill site to be within the administrative boundaries of municipality. Also from the standpoint of providing for long-term planning, the boundaries as they're laid out now would allow us to plan for 20 to 30 years, as opposed to 10 to 15 years.

The Chair: Any more questions?

Mrs Mathysen: I noted in your brief that you said this annexation will allow for the dream of Londoners to acquire their single-family homes. Recently the province has embarked upon a program, a plan of intensification, because we reckoned that we can't afford to sprawl out any further. The costs of urban sprawls are beyond our capability now. What is your board's position on the changes to the Planning Act that would allow accessory apartments and granny flats and the intensification that we need to utilize underutilized services within cities like the city of London?

Ms McCann: The board's position on granny flats and allowing for the implementation of an apartment in each home? They are not in opposition to more intensified development as such. In my statement, first of all, I did not state single-family homes, just that people would hopefully be able to own their own homes. That may be, to some persons, a condominium or a town house; it doesn't have to be a single-family home. Home ownership comes in different forms.

From the standpoint of the granny flat issue, they have stood behind the fact that they feel it is better to have the zoning bylaws addressed at the municipal level on a per community basis, that it's not necessarily the best for all communities to have dictated from a provincial level an overall program in that regard. They feel that the individual municipalities are better able to determine what their needs are in terms of zoning.

Mrs Mathysen: Do you happen to know what the currently available growth potential is in terms of the city of London now? It seems to me that during the annexation hearings we heard that there was right now, in the city of

London, room for 4,500 units. Is that correct, or is that figure high or low?

Ms McCann: I can't indicate that. Are you saying for single-family serviced lots? Is that what you're quoting?

Mrs Mathysen: Units, yes. Additional units.

Ms McCann: So single-family as opposed to town house or condominium units? I assume that would be far too low for that. It must have been a quote for single-family units if that's the number. I do not have that number at my fingertips, I can tell you.

Mrs Mathysen: So there is room for more than 4,500 units?

Ms McCann: I don't know that. I can't comment on that. I don't know what the room that is left is. It depends on what stage of development you're speaking of, if you talking about a subdivision draft plan or if you're talking about current serviced lots or current subdivisions that are under construction. I don't have the number.

1050

Mrs Mathysen: Could we get that from the ministry? I think that must be available somewhere. I'd like to see that figure again, just to be able to determine whether or not my recollections are accurate.

Ms McCann: I believe LDI would have probably given that number in their presentation.

Mrs Cunningham: The London Development Institute put those numbers before this committee about a month ago.

Mrs Mathysen: Okay. My recollections go back to the arbitrator's hearing. I would appreciate having that, just to refresh my memory.

Ms McCann: I believe, relative to a time standpoint, they felt it was approximately three to five years' worth of development, depending on what—

Mrs Mathysen: How intense it was?

Ms McCann: How fast the markets will be. It might be longer in today's terms.

Mrs Mathysen: Or the densities? Yes, okay.

Mr David Winninger (London South): You mentioned in your paper, Ms McCann, the emphasis that your real estate board places on planned growth. I think that everyone would agree, no matter where the municipal boundaries fall, that we need better planned growth than we've experienced in the past. I was wondering whether your real estate board has struck some kind of committee that is looking at ecosystem planning for the future rather than just the present?

Ms McCann: We have not. It would be an issue we could address in the future. I know most people who are involved in the development industry are aware that the type of eco planning issue you're speaking of is going to be very important, and obviously very important to the new draft plan of London, and it will take some time to facilitate that we are going to be involved and being called on to give input in that regard. I expect that we will be considering that, but there's nothing formally in place at this time.

The Chair: We're going to go to Mr Grandmaître. If you want to get a glass of water, it's going to be a long question and you might need a drink.

Mr Bernard Grandmaître (Ottawa East): No, it's going to be a short question, a short question and to the point.

Ms McCann: I'm here only in lieu of our president.

Mr Grandmaître: You've been in real estate for a good number of years. You've been a member of the board—

Ms McCann: Personally, I've been a member of the board for 16 years, and that's the duration of my real estate career.

Mr Grandmaître: Tell us about the pressure on the board for more commercial and industrial land.

Ms McCann: Commercial and industrial land has always been seen as what will provide the growth for—

Mr Grandmaître: No, no. I'm not asking you this. I know this. I'm asking you, what's the pressure on your board right now for more, to create more commercial and industrial land. That's why the annexation is taking place.

Ms McCann: To create more industrial land?

Mr Grandmaître: Yes. What's the pressure on the board right now? Have you got a list of potential customers waiting for these lands to be rezoned?

Ms McCann: I personally do not, because the area I primarily am involved with is residential. I do not personally sell in the commercial market.

Mr Grandmaître: But you're a member of the board, though.

Ms McCann: Yes, I am.

Mr Grandmaître: And you don't know what the pressures are on that board?

Ms McCann: Not in terms of specific numbers. I can't give you that.

Mr Grandmaître: Do you think that tripling the size of London would answer all those commercial and industrial calls?

Ms McCann: Certainly I assume that that was taken into consideration when they were looking at the boundary levels that they were requesting.

Mr Grandmaître: Did you think that the 1988 proposal wasn't adequate enough?

Ms McCann: In terms of how long it takes to go through the official planning process and the types of other things that have to be considered now, relative to such things as I've mentioned here before—

Mr Grandmaître: Yes, it usually takes two or three years to go before council, the OMB zoning changes, official plan amendments and so on and so forth, but you're looking at tripling the size of London.

Ms McCann: But after you go through that, then you have to go back and redo official draft plans for the city. It's not just the case of going through annexation. It's what we're going to be faced with now in the city of London, of

redoing an official draft plan that will take a great deal of time to complete before—

Mr Grandmaître: I realize this.

Ms McCann: —anyone can actually go ahead and do any development.

Mr Grandmaître: One last question, Mr Chair, before I pass on to—

The Chair: You still have time.

Mr Grandmaître: Good. What role did you play in the last official plan of London?

Ms McCann: I personally?

Mr Grandmaître: No, I'm talking about the board.

Ms McCann: The board did a presentation, but I don't know how big a role that was. We had members who were consulted in the last official draft plan.

Mr Grandmaître: Don't you have a committee responsible for—

Ms McCann: No.

Mr Grandmaître: You don't.

Ms McCann: No, it would be part of existing committees or a subcommittee, but we don't have, at this point in time, an official draft plan committee.

Mr Eddy: Thank you for your invigorating presentation—I enjoyed it—and thank you particularly for bringing out the fact that London is the only municipality in the area that has the tax base to develop all this wonderful agricultural land, because we've been led to believe up to this time that it would be the developers who would pay for it. I'm pleased to hear you acknowledge and admit that it's the taxpayer, which is of course the taxpayers of the city of London. I appreciate that clarification.

I have three short questions. One, do you agree that the municipalities around London should have access to the provincial Lake Huron pipeline, the same as the city of London has? Secondly, you represent St Thomas as well. Would you agree that Yarmouth township or some other township should be added to St Thomas because it's getting near being filled and will want land for development and expansion? Thirdly, do you agree with the very restrictive agricultural designation and zoning that are going to be placed on 90% or a very large percentage of the Westminster lands when they go into the city of London? So it's the right to water for others, the St Thomas growth and, thirdly, the restrictive agricultural designation which won't allow it to be developed.

Ms McCann: The right-to-water issue is not one that I have studied, nor do I feel that I can comment on it.

Mr Eddy: But it is a provincial pipeline. You're aware of that.

Ms McCann: Yes.

Mr Eddy: Thank you. We'll leave that one.

Ms McCann: As far as the restrictive zoning for agricultural land is concerned, I think that's a part of the intensified development process, whereby you don't let things sprawl ahead of where they need to be, so from that standpoint I think that's environmentally sound.

Mr Eddy: But it's there for at a time when it's needed it'll become developed.

Ms McCann: It will be controlled.

Mr Eddy: I see, okay. What about St Thomas expansion? Which township would you select to add to St Thomas?

Ms McCann: Not being a resident of St Thomas—

Mr Eddy: But your board is the London and St Thomas Real Estate Board.

Ms McCann: Yes. I can't speak for the board, because it has not given me a position on this—

Mr Eddy: Do you see the same solution for another expanding city, a township adjoining?

Ms McCann: Yes.

Mr Eddy: Thank you.

The Chair: I'd like to thank you, Ms McCann, for appearing before this committee.

1100

CITIZENS AGAINST ANNEXATION

The Chair: The next group we have, and everyone has in front of them its brief, is Citizens Against Annexation. Carolyn Murray, would you come forward, please, and your associates. Could you introduce yourself to the committee, and for the purposes of Hansard also.

Ms Carolyn Murray: If I could take that opportunity to introduce myself, I'm Carolyn Murray. With me are Jay Burtwistle, Susan Grieve and Neil McRae. I will introduce them more fully during my presentation.

The Chair: Okay, fine.

Ms Murray: Thank you for giving us the opportunity to speak to you today. Citizens Against Annexation represents a broad cross-section of people from the town of Westminster, the rural areas, towns and villages in Middlesex, as well as supporters from the city of London. Because we are the people who live in the affected area and are experiencing the stress, the disbelief and the uncertainty of our future, we offer a different perspective to this issue. We have no vested interest other than stewardship of the land, and we do not stand to profit from the passing of Bill 75.

Mr Gosnell stated two weeks ago that this London-Middlesex annexation issue is one of urbanization. We submit that it is more complex than drawing lines on a map and deciding that a larger municipality can be given the right by the province of Ontario to invade a smaller municipality, dismiss its democratically elected council and leave the citizens disenfranchised with a collaborator as our representative.

In any other part of the world, this scenario would not be tolerated. Individuals and groups across this province are shaking their heads in disbelief that such a move to create a city 80% the size of Toronto, with all its problems, is actually being contemplated.

It's frightening to us as rational, intelligent and hard-working citizens of this province that a 175-year-old municipality, which asserted its right to self-determination, could be obliterated by another municipality with a grudge, under the guise of good planning.

We are not going to read the brief you have before you. Instead, I will highlight the main areas we have addressed.

In it, we have given you a brief outline of the history of the London-Middlesex negotiations. We've also outlined myths and misinformation about the following areas: servicing, planning, justification of the large annexation and survival of Middlesex county. We have presented alternative solutions that are available. We have also listed our specific concerns with the legislation, Bill 75. Lastly, we have asked eight questions which we'll address later in our presentation today.

If I could just summarize our concerns, we are concerned about the size of the area to be annexed and the resulting loss of Westminster as a municipality. We'd like to emphasize at this time that we do not consider this an amalgamation, a word that's been slipping in lately, I notice. This is an annexation.

We are concerned about the buffer zone. There's no need for it; London already objects to every proposal for development in the fringe area.

We are concerned about the disenfranchisement of citizens of Westminster, London township, West Nissouri, Delaware township and North Dorchester.

We are concerned about the escalating costs and unknown future costs. This Bill 75 is not the least-cost solution, as was the original provincial interest that was designated when Mr Brant was appointed as the arbitrator. We're also concerned, along this point, that the city and other developers keep talking about the revenue that will be coming from development in the annexed areas that will cover the cost of the annexation. We submit that there will be no revenue until this recession is over, and we're not sure when that's going to be. To say that annexation will provide revenue, will stimulate development, is patently untrue and cannot be proved.

We are concerned about the threat to the agricultural industry and the community.

On November 5, the last time we were together, you were told about a petition that was circulated in May 1992 in the town of Westminster. You were not told that the people circulating this petition deliberately misled people about which petition they were signing by using the statement at the top, "Annexation is not our choice." Previous to this petition being circulated, the original petition opposing the Brant report and Bill 75 was circulated. People not seeing the two petitions together thought they were one and the same. Therefore, we sincerely question the validity of the 1,335-signature petition that you were told about last time we met. This is another example of deception that has been proliferated through this whole issue.

However, we want to point out that there are on record here at Queen's Park 5,600 names on petitions opposing the Brant report and Bill 75. Almost 1,000 of these signatures belong to London residents. We know that all MPPs have received many letters and phone calls clearly illustrating opposition to Bill 75. In addition, many city and county residents helped to pay for our large advertisement in the London Free Press recently. I have a copy of that here, if anybody is interested in looking at it. Clearly, these

people believe that government should be by the people, for the people. Most recently, we have been circulating a one-page statement to groups in Middlesex and London and asking for their endorsement of a reduced annexation. I have copies of this for the committee.

The Chair: You can give copies to the clerk after and you could make copies to give to all members of the committee.

Ms Murray: Okay. I would just simply read the statement and highlight some of the groups who have endorsed it. The heading is "Annexation: A Local Solution."

"The London annexation act, Bill 75, is a provincially imposed solution to a local problem. For many reasons a local solution was not possible until just recently. There now exists a local government consensus drafted by a coalition of concerned urban and rural councillors, agricultural groups, and others with expertise in municipal affairs. This local consensus addresses all of the local concerns, but reduces the size of the annexation to 24,000 acres, which is the amount unanimously approved by London city council in 1988. Only direct interference from the province of Ontario by the minister of the day prohibited an accord being reached on this proposal.

"This consensus represents a local solution to a local problem and still allows much room for growth by the city, and an opportunity for cooperation on planning issues, environmental issues and servicing, yet allows the rural areas to maintain their integrity and identity.

"We, the undersigned, do lend our support to this local government consensus on the London-Middlesex annexation issue."

In the short time that we've been working on this, which is less than two weeks, we've been able to get endorsements from 25 local and provincial organizations, including the Ontario Federation of Agriculture, the Middlesex Federation of Agriculture, the three Middlesex county teachers' union groups and associations, the Thames Region Ecological Association, and the list goes on. We are currently circulating this statement and it's presently before executives of other church, labour and community groups, so further endorsements are forthcoming and will be forwarded.

We have been gratified by the solidarity of groups across Middlesex on this issue. We just also want to relay that we have been made aware that there are members of city council who are concerned about the size of the annexation, the escalating costs of compensation and servicing and the social and economic impact of the transformation of a small, tightly managed city of London into an unwieldy, financially strapped megacity.

The sad fact is, however, that although London councillors and citizens are thinking these things, nobody is acting. We think that there are several reasons for this: (1) is the ever-present apathy, (2) is ignorance of the real impact of Bill 75 and (3) is fear that the whole deck of cards, that is, Bill 75, will fall down if a change is suggested at this time. That's why we feel it's absolutely imperative that this committee and the province of Ontario act now to reduce the size of annexation and pave the way

for implementation of long-term land use policies as are outlined in the Sewell commission report that will be coming forward next year.

At the beginning of our presentation, I did indicate that we represent a broad cross-section of people and I'd like to introduce those people now. Mr Jay Burtwistle is a young fifth-generation farmer in Westminster, Neil McRae is a 41-year resident of the village of Lambeth and Susan Grieve is a teacher and partner in the Westminster dairy farm. If there's time, I would also like to read excerpts from a submission by Mr Craig Connell, who's a dairy farmer in Delaware township, and a letter from a grade 9 student at Regina Mundi High School. Jay Burtwistle.

1110

Mr Jay Burtwistle: Thank you, Carolyn. As Carolyn has said, my name is Jay Burtwistle and I'm a farmer in the community of Temple in the town of Westminster. I am representative of the fifth generation of my family to be farming in Temple, and there are many other farming families in the surrounding areas that share similar heritages.

More significant than the heritage alone is the ethic of stewardship of the land and its resources. This ethic comes from a will to care for the resources of the earth which sustain life. The land has provided for previous generations of my family, and so we care for the land in hope that it will, through our work, provide for future generations of Burtwistles as well.

Does this mean that I and other farmers expect the rest of the world to leave us alone and work around us while we preserve our heritage? Certainly not. Since 1850, Canadian generations of my family have changed with the area and contributed to progress along the way. The first generations saw the planks laid on the Talbot Road, past lot 53 on the north branch of the Talbot Road. Today's generations, my parents and myself operate the farm now, live and work at what is municipally known as 6787 Colonel Talbot Road. This road is better known to long-distance travellers as Highway 4. It has four lanes and is intersected by the 401.

With so many changes taking place over the years, we are quite aware of the potential for future development as commercial or industrial land. What is important to me is that I can work with a municipal council that appreciates agricultural issues in good land use planning as well as in fair treatment of its constituents.

The town of Westminster has had enviable success in developing as a municipality with a rural and urban mix. Not only is the town home to commercial, industrial and residential developments, but it also appreciates agricultural concerns. It is a place I can proudly call home town.

I have seen nothing in London's history or in London's recent empty promises that leads me to believe that London will adequately protect agricultural lands within its boundaries. Urban development is more lucrative than agricultural development. Urban centres, which tend to value tax dollars more than agricultural resources, find it easiest to spread development on to cheaper land on the city's

fringe while the downtown core deteriorates to whatever extent the province allows.

Bill 75 does not have the ability to foresee what developer-driven London's council can do to manoeuvre and pressure farmers from the land. London council's attitude cannot be changed by legislation.

I and my family intend to be stewards of our land, whether it be agricultural or not. However, a rough transition from agriculture to other uses would adversely affect our ability to take part in other developments which may be needed on our prime farm land in the future. A smooth transition can better be directed by a municipality which recognizes agricultural issues.

Committee members, I urge you to take a close look at the adverse effect this bill would have upon Middlesex county's ability to survive, London's ability to maintain services to such a large city, Westminster's right to continue the challenging work that we have started and the farmers' abilities to make productive use of Canada's best agricultural land and care for the resources that we owe so much to.

In conclusion, I would like to quote from a daily planner that I use. A man named Frank A. Clark is quoted as having said: "We find comfort among those who agree with us, growth among those who don't." I don't know Frank A. Clark but I find simple wisdom in his words. I believe that my home town of Westminster has been following a course which recognizes this same principle and I would urge you to consider these things carefully.

Mr Neil McRae: Good morning. I am Neil McRae. I appreciate the opportunity to speak before you to express my concerns about Bill 75 and the possibility of Westminster being swallowed by the city of London. I moved to this area in 1951 because of my job. At that time we had a conscious decision to make as to where to live. We chose the village of Lambeth.

We made that choice for a number of reasons. Our background and upbringing was in rural communities. Lambeth gave us the chance to remain a part of a small community. We were just beginning to raise a family and we chose Lambeth for the children, for that close-knit sense of community they would be part of. Those children are grown now and I have been a resident of Lambeth for 41 years. Throughout the years I have been part of many organizations and societies that are part and parcel of what makes Lambeth what it is and what makes Westminster what it is.

Make no mistake. London is lovely city with much to offer and a fine place to live, if they have made the choice to live there. I did not make that choice 41 years ago and I do not want that choice taken away from me now. If you pass Bill 75 and Westminster disappears and Lambeth becomes part of London, I might be living in the same house on the same street but I will no longer be living in a rural community of my own choosing. I will be living in a large urban city that I did not choose to be part of.

As Canadians, we have the right to make certain choices, we have many freedoms. One of those freedoms should include the right to choose where we reside and the type of community we are part of. Bill 75 takes away the freedom of choice.

Ms Susan Grieve: You've been inundated with facts and figures and arguments over the last months of hearings. In spite of all this information, there are some basic questions that, as committee members, you must ask and you must have answers for. You have asked people many questions and we are going to pose some questions to you. We hope that you will have the answers to these questions before you can consider voting on this piece of legislation.

In our original brief that we outlined we had eight questions, and I'll read them very quickly:

(1) In real terms what will the cost of this annexation be and where will the money come from to pay for this?

(2) In real terms what costs does London face to replace, repair and maintain current levels of service?

(3) What happens to Middlesex county when the 10 years of compensation are over?

(4) How can Bill 75 be democratic when it is quite obviously opposed by the majority of the citizens in the area it affects?

(5) Why did David Cooke, after saying this would be the model for all future annexations, then write a letter in defence to 834 mayors of Ontario saying this was a unique situation and would not be repeated? This was not unique. It was mishandled and this letter was an admission that the process was flawed.

(6) How can you justify an annexation of 64,000 acres when the city's proposal to the arbitrator in March 1992 stated 12,000 acres were needed to sustain growth to the year 2026? The current local government consensus proposal offers 24,000 acres, twice as much as London admitted to needing for the next 35 years. By their own admission in March, this is developer driven and any economic gain for the area will be in their pockets.

(7) Why is Bill 75 being rushed through by January 1, 1993, prior to the report from the Sewell commission and in the face of such concern and opposition?

(8) Finally, and perhaps most importantly, as politicians you must remember the recent referendum which was a clear message that the citizens of Canada are unhappy with their governments. Governments are not listening to the people and the NDP is illustrating this disregard. Ask yourself: Have you really heard what the ordinary grass-roots people of London and Middlesex are saying or have you heard only other politicians, developers and speculators who have a vested interest?

We believe those eight questions must be answered in your own minds before you can make a decision with respect to this legislation.

The defence against changing this legislation that's been used by both the city of London and by ministry personnel is the question of time. We hear that it's too late, we've gone too far. I ask you, why is it too late and what is it too late for? Is it ever too late for rational thought? Is it ever too late for fairness and good decision-making? Is it ever too late to right a wrong?

1120

Bill 75 is wrong. It's wrong economically, it is wrong democratically, agriculturally and morally. To proceed with this because the Ministry of Municipal Affairs perceives that it is too late illustrates a serious flaw in

our democratic process. If a piece of legislation is clearly flawed before it is passed, and the people have been vocal in their opposition and an alternative solution exists, what is to be gained by pushing it through? When have so many wrongs ever made a right?

Wouldn't it be far better to admit we have a problem and mend it now rather than to have to pay dearly for it later? January 1 is not etched in stone. The Ministry of Municipal Affairs is clinging to that date for fear that if substantial changes are made, someone might have to admit he made a mistake, that we have a problem.

It is not too late for this committee to give us back our belief in the democratic process. You committee members are elected by the people, and you alone have the power to make changes and you alone are responsible for what will happen. It is not too late to send a message to rural Ontario that we matter, that what we do is important and that as rural municipalities we should not have to continually fight to justify our very existence.

Instead of viewing this as a no-win situation, view it as an opportunity to set a positive precedent for the future. Show the other 41 areas facing annexation that the people's wishes count, that cities must be accountable and cooperative with their neighbours and that developers can't dictate provincial policy, as they do with so many city councils. Show those areas and show us that a local solution is much preferred to a provincially imposed one. You have all the ingredients to resolve this in a way that will allow growth, cooperation and will show the people that you're listening.

In trying to find the right words to conclude with, I realized that throughout the hearings that I've been a party to, we've heard about dollars and cents, tax increases, boundary lines, servicing capabilities—and the list goes on. But the element that's missing, the most important element of all, is that of the people and what we are feeling. So I would like to end on a personal note, but a note that I know is shared by my friends at this table and by many of the people sitting at the back of this room.

We feel like we've been teetering on a fence for the last eight months, not entirely sure which way we're going to topple. I truly wonder if you have a sense of what this has done to us, how all-consuming this has been for the last eight months. We have felt incredible frustration and anger, and as we grow closer to the prospect of seeing our community wiped off the face of the map, we now feel deep sadness. The people who support this bill, for whatever their reasons, because they will profit or who believe that life really won't change a great deal, those people will never understand these feelings. To them it's all just lines on a map; it has never been people.

When I moved to Westminster 11 years ago from a neighbouring rural township, I moved to a township that was vibrant and thriving. I watched as that township evolved into a town and 6,000 of us gathered to celebrate, I watched as we struggled to stand up to our Goliath neighbour, and I watch now as we stand poised to lose that battle. If you pass this legislation as is, the greatest sadness is not where the boundaries fall or what will happen to the landfill site or the greed; the sadness lies

in what you'll do to a community. The sadness is in the abstract things that are going to disappear for ever.

Gone will be the days of walking into the town office and chatting with Wende at the front desk or talking with the administrator, Doug, about a problem. Gone will be the days of driving down the road to have a chat about a drain with your councillor over a cup of coffee at the kitchen table. Gone will be the small-town sense of community pride, a community that pre-dates London. Gone will be the opportunity to flag down Cliff, the road superintendent, and complain about the snowplowing or the potholes. Gone will be the days when your council, your road crew and your volunteer firemen knew every nook and cranny of every side road and, probably, who owned the land for the last 100 years.

And gone will be the spirit of what made Westminster, the spirit of the families of six or seven generations—the Weldons, the Crinklaws, the Murrays, the Beatties, the Grieves, the Laidlaws—the spirit of the Glanworth Recreation Association, the spirit of Mrs Burtwistle's Tempo News, the spirit of the volunteer firemen who give so freely and unselfishly of their time. How terribly sad that these human values are always secondary to the almighty dollar. The cost of this annexation is dear indeed.

No matter what this committee does, you can't take away what Westminster was, but if you pass Bill 75 in its present form, you will take away all of what Westminster could be from our young farmers and from our children. We ask that you don't. Let us keep our rich heritage, our rich tradition and our promising future.

[Applause]

The Chair: Okay, Ron, you can applaud. Being a rural member myself, I hear you loud and clear, but I can't make a comment.

I'll go one question each. We're down to that unless the other group wants to give up time, and I don't think they want to. Irene, one question, not three questions in one question. Ask the most important question you want to ask.

Mrs Mathysen: I guess the most important question is in terms of the agricultural land in the rural communities, so I'll address it to Jay. You said that your fear was the issues that confront you every day as a rural resident and not being able to communicate those issues to a city council and get remedy for them. What kind of issues are we talking about, and how do you see yourself in terms of the kind of representation you will receive from an urban council in the city of London?

Mr Burtwistle: We're talking about quite a range of issues. One specific issue that comes to mind is that an urban council will cater more to urban people, and a lot of those urban people have dogs. I, for example, am a farmer who raises sheep. Anybody who has had contact with rural issues probably knows that sheep and dogs do not mix well. Currently, in rural areas there are laws in place that compensate farmers for damage to sheep or livestock by marauding dogs. These are issues which can be subject to some alteration by a council on minor points, and just the

attitude of the council towards problems such as these would put a lot of pressure on the farmer.

Mr Eddy: Just one short question. I must compliment you for your very strong feeling and your presentation this morning, one that I agree with in so many ways. I take it from the presentations that were made that you really have a strong feeling that there's no place for small-town or rural Ontario in this government's agenda. Do you feel that, or do you disagree with that? It's just a yes/no, because there's a good question over there.

Ms Murray: I'll put it this way: If Bill 75 is passed, that feeling would be confirmed.

The Chair: Okay. We'll go on to the third party.

Mrs Cunningham: This gives me my opportunity to ask a question that we've been asking all along. With regard to the brief you presented earlier, the backup notes, where you talk about the alternative solutions, I've always said to representatives of any of the counties who have come in—because I share the view on the large annexation in that I don't support it—that the only way you get things done in this job is to get the support of the municipal councils and come up with an alternative to the government. It's the only way to get it done.

I'm aware that there may be amendments put forward, but the key question from the minister will be, do you have the support of the county and the city? You said here that you've got some alternative solutions. That was my key question in August when we had the hearings, all last spring. Are you any further ahead? Have you got a plan you can put forward where you've got the cooperation of the elected officials?

1130

Ms Grieve: One of the problems we have faced is the inability to have this brought before London city council. An attempt was made, and it did not get further than the board of control. The other problem we've faced is that many of the members of London city council had only been given a certain amount of information, and the information that perhaps is the most pertinent, that might affect their view of this matter, they are not aware of, for whatever reasons, and we have found an unwillingness to discuss it. Carolyn touched on the fact that we sense there's a fear that if they don't take the 64,000 acres, the whole house of cards is going to come tumbling down and they'll get zero.

We believe that if they could be made to see that there is a compromise where they will get something, that there will be growth and the entire area can grow economically, and if they were assured that they would have that opportunity for growth, there are many members of city council who would be very willing to look at a smaller annexation.

Mrs Cunningham: As a result of that response, I don't think it would be fair to not ask a supplementary. We did get a letter, as you know—you have it before you—with regard to the town of Westminster. Is the town of Westminster on record as supporting the position that you wanted to put before the city of London?

Ms Grieve: Yes.

Ms Murray: Yes.

Mrs Cunningham: I just wanted it on the record.

I'm not asking a question; I'm just going to say something to you, Mr Chairman. I think the point has been made about this fear, and I think it's the government's responsibility to address that, not the members of this committee. Obviously, it's something that's coming from the government.

Mr Eddy: On a point of information: I just want to ask a question of anyone who would know. Is the city of London the only municipality left in Ontario with a board of control?

Interjections.

The Chair: Maybe we can get back to you on that. I don't know. I don't live in London, and I'm glad I'm not there right now.

Mrs Mathysen: The answer is yes. It's the only city in the world with a board of control.

The Chair: Mr Mills has a few comments to make.

Mr Mills: I'd just like to make a comment. I heard you very clearly about the character of your community, that Joe won't be there with his snowplow, and I'd like to leave you with a thought: The communities are changed by official plans and not by boundaries. That's the key to the matter.

The Chair: Thank you for appearing before the committee this morning.

DORIS BOND

TOM GRIEVE

DOUGLAS STANLAKE

The Chair: Next, we have Doris Bond and Mr Tom Grieve. I'd like to welcome you to the committee. You may begin. If the bells ring, we'll have to go to the House for a vote. That's why I've been pushing everybody to get through.

Mr Eddy: We'll come back.

The Chair: Well, it depends on how far we get. If we get to five after, it depends.

Can you identify yourselves for Hansard? Do you have three parties here or just two speaking?

Ms Doris Bond: Three. My name is Doris Bond and I am a councillor with the town of Westminster. With me is Reeve Tom Grieve, and also the administrator of the town, Douglas Stanlake.

We are here as private citizens but we are speaking in support of the resolution passed by Westminster council on October 28 endorsing the 1988 proposal of the city of London as the preferred solution for boundary adjustment. I would like to say that a certified copy of this resolution will be in your hands later this afternoon in response to this letter you have received on your desk this morning. This letter was not authorized by the full council; it was sent individually, personally, by the mayor.

I'll go on with our presentation.

To quote a well-known provincial politician:

"I have tried to approach my tasks keeping three things in mind: (1) The role and authority of local governments must be recognized and respected; (2) The provincial government

has a responsibility to help ensure that municipalities have the tools they need to plan their futures; (3) If governments at all levels are going to overcome the challenges facing us in the 1990s, we must work together as partners."

Bill 75 violates these three principles, as local governments and the public have been manipulated by ministry staff. Local councils have been abused and demeaned. The financial tools to help build for the future have been stripped from the rural community of Middlesex. Bill 75 has divided communities and friends, creating hostility, not partnerships and understanding.

The provincial politician I quoted was the Honourable David Cooke in the initial edition of this magazine, *Community*. Now I wonder how this same person can endorse Bill 75. The NDP government, rather than aiding those who are threatened, will, through Bill 75, crush the vulnerable and weaken the already weak. This is not my idea of partnerships. Ontario is more than large urban centres. Small towns and rural communities also play a significant role in this province.

Although it is tempting, we are not going to take this time to bash the government, but rather speak in support of an alternative that will be best for all involved.

The basis for a better solution is found in the 1988 proposal made by the city, which the parties involved were denied the opportunity to discuss. Copies of that proposal have already been filed with this committee. This map illustrates the differences, showing the 1988 proposal as a basis for a preferred solution, and Bill 75. The green outline is Bill 75; the pink outline is the 1988 proposal.

Middlesex-London is outlined on this map as well. The communities involved have a population of 367,000 and 150,000 households. Four provincial ridings are involved and three are currently held by the government.

Westminster has had an official plan since 1974 and land use controls for 25 years. The new official plan approved in 1986 received compliments from the OMB for its comprehensive and innovative approach to land use planning. Westminster is the only municipality in the county to employ full-time professional planners. Westminster is 55,000 acres in size, and nearly 85% is designated agricultural, 2.5% is designated residential-commercial and 3.5% is designated industrial. Westminster has a total population of 6,300 people. The existing urban area of Lambeth has a population of 3,200. It has a full municipal water supply and over one third of the households are on sanitary sewers.

There are contradictions in Bill 75. The bill directs the county and the city to plan jointly, but then Minister Cooke says that joint planning will not work and this is the reason for the massive annexation. Which policy is Mr Cooke following? Or is there a policy? Partnerships are built through cooperation, not confiscation.

Mr Tom Grieve: Westminster might not be a large urban centre, but we do have servicing plans in place. We are a municipality that has no debt other than a small amount that our PUC has incurred. Our debt capacity is approaching \$7 million and our financial approach has been to service our debt. We pay as we go. Property owners

only pay for the services received, and for some time we've had area rating bylaws in effect.

In planning for long-term services, Westminster has worked in partnership with the development industry and prepared a master servicing study, which we have here for you to look at today. This is based on watershed planning. This is the first kind of study that was completed in Ontario under the environmental assessment process. We also have done a development charge study and we have passed a bylaw. We have a copy of this study for you today too.

We have maps today showing our sewage and water services. Right now, Westminster has two sewage treatment plants. We have one in Lambeth, called the Hamlyn plant, which handles approximately 200 homes and is capable of doubling in size. We have another plant, called the Digman plant, which services land in the Wellington Road area, and it can be increased to five times its current size. We have approval from the Ontario Ministry of the Environment to expand the collection area to provide sewage treatment to our industrial area.

London has advised us that if it annexes Westminster, it will use exactly the plans that we've developed to service the land that's presently in Westminster. We have the financial resources to do this, so what's the advantage of being annexed? How does this create economic renewal, if the same number of jobs are being created no matter which municipality calls the contract?

When we look at water, we have the water services that we have in place with the PUC on this map also. They're presently centred in the Lambeth area, which is the light blue line, and they extend north on Wonderland Road and east on Highway 2. The dark blue line is the present city water line that goes through parts of Westminster, and the dotted line in the centre part of Westminster is the new Lake Erie pipeline that is going to be constructed in 1993-94, which has capacity to bring to the London area 10 million gallons a day.

With city water lines on town roads, doesn't it make sense that we should use those instead of installing a second line? That's where joint services seem to make sense and save money. If you think about it, many of these water lines were financed with provincial money. We're provincial taxpayers too and we financed the Lake Huron line. We also helped to finance the Lake Erie line.

The city currently has a policy: To connect to city water, you have to agree to be annexed. The point being made here is that small communities also plan. We have the capability to look to the future and we use the tools available to us, just like large urban centres.

1140

We have another map, talking about joint services. In the 1988 proposal the city made, it talked about joint services as a low-cost solution. They must have believed it was the only way to do it. We believe that fair agreements do work.

It's interesting to note that in David Cooke's own riding of Windsor-Riverside, joint service agreements are established between the city of Windsor and the communities of Tecumseh and St Clair Beach. These agreements have

been in force for over 30 years. Also, there are agreements between Windsor and Sandwich South township that have been in place for over 25 years, and these are the green sheets that are attached to the back of our presentation.

When you talk about joint service agreements, there are three principles: There's got to be full cost recovery for the supplier, only those receiving services pay and there are financing agreements between municipalities and the development industry by front-end financing agreements and development charges.

When we make up joint service agreements for water, it's quite simple. The supplier charges for the water consumed and the user or the purchaser charges the end user for the water plus the cost of the debt on the water line.

Sewage agreements are very similar. The difference is that additional upfront money is required. This process allows for a major plant to be financed and built over several decades.

In the London area, already there are several joint service agreements that work and they all seem to benefit everyone. Even John Brant, in his report, stated that the minister should allow joint servicing. Since 1960, the city of London has entered into over a dozen joint service agreements for landfill, for roads, for sewage treatment and for water supply. In fact, we've been billing the city of London for 30 years for sewage treatment because we're treating some of its sewage.

The city of London's water supply is based on a joint service agreement with the province of Ontario. Is this committee being told that joint service agreements don't work, when the province has them with its own municipalities?

The province intervened and said no to joint service agreements. In these uncertain economic times, I think we have to do everything we can to work with our neighbours to get the services to the people. That's what really counts.

Ms Bond: Minister Cooke said Bill 75 will aid in the economic recovery for the area. We question this statement based on recent facts.

Bill 75 will take in excess of \$35 million out of taxpayers' pockets over the next 10 years, with no change in service. This compensation tax does not generate more jobs. This added tax could force some businesses to the break point.

How do you create economic recovery by taking existing shopping centres, manufacturing plants, residential units and farms from one jurisdiction and putting them in another? Massive annexation will not create jobs. Most likely, jobs will be lost.

Bill 75 is pushing London over its threshold for several services, which will increase the cost to implement Bill 75.

Bill 75 is an imposed solution, not a negotiated partnership that could meet local needs at reasonable cost. Further, it is to be implemented without a full costing report.

It is our understanding that London city council has yet to accept Bill 75 by resolution. They've only accepted in principle the Brant report, which identified far less cost to the city.

The three local NDP members and Dianne Cunningham are going to be blamed for the high costs of Bill 75, because the province refused to accept a lower-cost alternative

suggested by the city in 1988. Tory mayor Tom Gosnell has already set the stage and he has a real scapegoat if Bill 75 is passed: "The NDP government forced this solution on us."

Only in the last 30 days have financial impact reports become known that address even ballpark implementation costs. Compensation payments to the county of Middlesex and area municipalities have grown because of the severe financial impact of Bill 75 due to the loss of assessment from the county and its municipalities, principally the loss of the assessment base of Westminster. The province has been asked to date to pay \$7.5 million in grants for compensation to the city of London. Why should the province have to subsidize the costs of this annexation? It appears the city is not in a position of being able to afford the costs of Bill 75. Why else would they ask for money, and why would Mr Cooke agree to such payments? Who gains if it costs taxpayers millions of dollars, regardless of which level of government pays?

Estimated costs of Bill 75 now have ranged from \$35 million to \$50 million to \$75 million. No one ever believed Mayor Tom Gosnell that this annexation would not cost city residents a dime, but can the city and the province really afford the costs now emerging?

A major impact of Bill 75 is future education costs, which the minister refuses to address and defers to a later date. It is irresponsible to proceed without knowing how much Bill 75 will cost in the short and the long term. Even that famous recent report of the Financial Times warns of the potential risks of a large annexation.

To finance the increased demand for capital spending as a result of Bill 75, city council approved, on November 16, 1992, reviewing development charges, increasing the city's debt and increasing water rates and taxes. All this means extra costs, an increase in fees for service and increases in property taxes. Small business and fixed-income home owners certainly do not need more taxes.

Bill 75 certainly has a pocketbook impact and has had an impact on the community like no other piece of legislation in the lifetime of many people. Bill 75 will cost people a way of life they enjoy and an entire disruption in community. It does not acknowledge how a massive annexation will affect people in their own community.

Mr Grieve: When we think of a solution, we have to remember the 1990 terms of reference, and the terms of reference were for a local solution. The solution had as its goals being the best form of government for the area, which meant the economic, environmental, cultural and social needs of the citizens of the area, and all municipalities, including the county, are to be based on areas of common interest, effective and efficient services, financial viability, accessibility and accountability. This committee must embrace these same terms of reference if a solution has any credibility in the eyes of the public.

There are a few other weaknesses in Bill 75 I'm going to point out. One would be that it creates a greater service level difference between the rural resident and the urban resident. As the county would lose assessment, it would have to cut costs, and one of the first things that would be cut is soft services. The library system would probably be cut and recreation programs would be cut.

Increases for higher service delivery charges: Eventually the volunteer fire department would be replaced by a full-time department. This would increase costs from four to five times.

It would be a very costly solution requiring provincial financial aid, and we know how tight the province is for money. It has all the appearances to be an economic damper and not a stimulator.

If we're going to look at another solution, we should consider the financial impact of the 1988 proposal on Westminster. We estimate that the compensation package to the county would be reduced by 50%. There should be no need for provincial grants to the city. We do realize, however, that Westminster taxes would rise slightly due to the police service improvements, assuming a three-year phase-in, and this would probably be about a 5% to 6% increase over three years.

The 1988 proposal has some positive points that should be considered. One of the points I think we should consider is that right in the proposal it says, and I quote from what the city wrote:

"We do not wish to push Westminster out of existence. It keeps municipal units financially strong. It reduces financial impact on non-productive taxes, and think how much more benefit it would bring to the region if we could spend the money on hard services instead of on compensation. It provides a reasonable amount of land for the city to expand on and it has broad public support."

1150

In summary, we would like to suggest to the committee some of the following:

- Advise Mr Cooke that with the financial impact figures now available, Bill 75 is too costly and has too great a financial impact on the county of Middlesex, and the province of Ontario cannot afford to provide funds to subsidize this cost.

- Due to the costs of Bill 75, there will be a major tax increase for all taxpayers, which is unjustified, and the annexation should be downsized.

- The committee should consider these principles for the 1988 proposal that are based on lower costs, and they would be: up to about 20,000 acres of vacant land annexed to the city for future growth and development, accept joint servicing as an effective way to address environmental concerns, and leave viable economic communities like Westminster and the county of Middlesex alone.

- Incorporate into the legislation direction that the city and neighbouring municipalities enter into agreements for water supply and sewage treatment by June 1993.

- Incorporate into the legislation direction that the town of Westminster and the township of Delaware negotiate an amalgamation agreement by December 31, 1993.

- Continue the provincial policy of no fringe development until full municipal services are available.

- Direct the ministry staff, the city of London, the county and the municipalities to complete a full financial impact analysis of the costs of implementing the 1988 proposal to establish a fair compensation package.

- Recommend that the effective date of this would be on December 31, 1994.

I made a few comments of my own last night and I want to say that, because this is basically our last kick at the cat, as I call it, the last time we have a chance to say anything about the boundary issues or Bill 75.

You'll notice we have one more map up here behind Doug. I want you to look at that, because that's basically a map of southern Ontario, and this is a province that elected all of you to where you are today. We're paying your salaries.

When this process started, as it was stated earlier, it was going to be a model process for others to follow, but as it floundered, it was changed, and it was intended to solve a unique situation.

On this map of southern Ontario, you'll notice that down in the southwestern part there's a yellow section. That includes all of London and Middlesex county; that's how big they are. If you get close to it, it looks like a pretty big area, but the farther away you are, it's smaller. Maybe that's the problem. I'm in the centre of that and it's a big issue to me, but to some of you who maybe live in Ottawa or Mississauga or wherever some may come from, it's just another small issue.

But, you know, a lot of people are watching what's going to happen in London-Middlesex, and a lot of people are wondering what's going to happen to Bill 75 and a lot of questions are being asked.

If you'll notice on that map, there are a lot of little red dots. Every dot indicates where there's another boundary issue before the Ministry of Municipal Affairs. They are all involved in the boundary negotiation act; there are over 40 applications before the ministry.

There are a few other dots on there indicating municipalities that have contacted us which are in a very similar situation of being close to a large urban centre, and they fear for their existence.

The boundaries of the counties are also outlined, because it's not just the individual municipality that's involved; it involves the whole county. There's a lot of the area of this province that is involved in boundary issues, and they're watching to see what happens here.

I sometimes wonder where the government gets the ideas for naming the bills it passes. I wonder why this is Bill 75. I've come to the conclusion that it's probably because it's going to cost \$75 million. And I wonder what some of these other annexation issues are that are going to be dictated by the Ministry of Municipal Affairs. What bill numbers are they going to be? Bill 40 or Bill 90 or Bill 103?

There's a big question being asked across this province, and they want to know: Is this NDP government going to allow the Ministry of Municipal Affairs to do to them what it's just done to Westminster?

It's not for me to tell you what to do, and it's not for Ben Veel, and it's not for Tom Gosnell, and it's not for Don Taylor, and it's not for Mary Newman, and it's not for Linda Duchek or Brian Riddell.

It's your responsibility, and your responsibility isn't any different, really, than mine as an elected official in Westminster. We have all kinds of contentious and controversial issues before us, and on one side we have our staff

advising us and doing background research on what we should do, and on the other side we have the business community and the public telling us what they want.

But who's in the middle? It's the elected official. And whose responsibility is it? It's the elected official's. Who has the final say? It's the elected official. It's up to Irene Mathysen and it's up to David Winninger and it's up to Ron Hansen and to Gordon Mills, and it's Ron Eddy and it's Gary Carr and the rest who aren't here right now. That's whose responsibility it is.

Whatever decision is made on Bill 75, it will go to create part of the legacy of Bob Rae's NDP government. Is that legacy going to be of a government that listened to the people, heard what they said and directed the bureaucracy in the way they thought the people wanted them to go, or is it going to be a government that listened to the people and didn't really hear what they said and just followed the way the bureaucracy thought things should go?

If I were in your shoes, I know what kind of legacy I would leave for the future. Doris started our presentation with a quote from David Cooke. I want to quote another elected official in Ontario: "Good government doesn't just happen. It takes good people working together to create good government."

The Chair: Thank you. It looks like we'll have about one question apiece, starting off with Mr Eddy.

Mr Eddy: Thank you for your presentation and thank you for the lesson. It's a good lesson and it's one that elected people need from time to time, and I'm pleased to be one of the recipients of it.

I don't really have a question, except that I'd like a clarification from the ministry; two in fact, but perhaps I'd better ask that later. I'd like the Chair to clarify the procedure, because it's been stated in at least one of the presentations, and maybe more, that people have been told and some of the presenters have been told that there's no possible way this can be changed. If that is the case, this is a travesty, to hear people make presentations with good, well-thought-out alternatives in order to help the entire situation, all of us.

The only question I'd have is, do all of you believe that there is an alternative that could be worked out and be acceptable to the area, that would give the city, shall we say, most of what it needs according to its own studies and be acceptable to most of the parties or all the parties?

Mr Grieve: I think all of the parties are willing to settle on something other than Bill 75. The county made a counterproposal to the city last July, and we just found out two weeks ago that city council never even saw that counterproposal. It got to the board of control and it stopped. But we are willing, and I think the people are willing to look for another solution.

The Chair: Mr Eddy, we've got to carry on. I can say one thing: amendments that your party has would be welcome, if we could, before we meet again so we can study them, and the same thing with Mr Carr. I believe Irene's tabling some amendments or a plan—

Mr Eddy: We beg the NDP majority government—

The Chair: It's just that I haven't heard yet that everything was in stone the way you were indicating through the Chair.

Mr Eddy: I don't think it is.

The Chair: There's still an open mind. I'd like to carry on with Mr Carr.

Mr Carr: Thank you very much for your presentation. As I was looking at the finances and how well you've done there, I was thinking that what we should do is throw this government out and bring you in to run it.

Mr Grieve: No thanks.

Mr Carr: It may be frustrating for you on this issue, but I want to tell you, it's frustrating for us, because the way this has been mismanaged is the same way the education system is being mismanaged, the health care system is being mismanaged, the whole economy of this province is being mismanaged. The frustration that you feel on this issue is what I feel every day on every issue as I talk to different people. There is this tremendous amount of frustration out there on numerous issues, and what goes to the heart of this is the way it's been done, a total lack of management.

My question is along the same lines as Ron's. If we have an acceptable solution there, the 1988 proposal, why do you think the minister, and ultimately this government, won't go ahead with it? Why won't they put something in place that everybody can agree on? Why is he not going with it?

Mr Grieve: I guess you'd have to maybe admit that you made a mistake, and that's all I'm going to say.

The Chair: I'm going to have to move on to Ms Mathysen.

Mrs Mathysen: I have a question that probably would require some lengthy thought, and by virtue of that—

The Chair: You're going to be cut off by the bell, I can tell you, so if you don't get going—

Mrs Mathysen: No, you're not going to cut me off, Ron.

Basically, you indicated in your brief that Bill 75 violates the terms of reference set out by the province for the arbitrator. Could you give us a sense of how you feel Bill 75 violates the terms of reference it's supposed to uphold?

Ms Bond: Actually, I believe it's the terms of reference that were given to Westminster and London in 1990, not the ones given to the arbitrator. They were different terms of reference.

Mrs Mathysen: I see.

Ms Bond: That's where a lot of the problem was. Westminster followed the terms of reference given to it in 1990.

Mrs Mathysen: Early in 1990? By the previous government?

Mr Grieve: That's the terms of reference that I believe Minister Sweeney set out, and that's what we've worked through. We went through the fact-finding, then we had the terms of reference and then we went to the negotiation

session where Mr Taylor was the chief negotiator. When no resolution was reached, the thing all fell apart, and then by that time Minister Cooke came in last January and went to the arbitration process and then gave John Brant a set of terms of reference that were completely different from the 1990 set. The problems haven't changed; they just changed the terms of reference.

Ms Bond: One main reason that Bill 75 violates the terms of reference is that it's not the least costly solution for the government; it's more costly than the other alternative solutions.

The Chair: I'm going to have to go to Mr Mills.

Mr Mills: Just a quick comment. There's a lot of emphasis spoken of the 1988 proposal, and I just remind you, as you probably know, that that was turned down by the previous Liberal government as well.

The Chair: Our time has expired. The bell's going any second now, so I'd like to thank you for coming before this committee.

This committee will be recessed until 3:30 this afternoon.

The committee recessed at 1203.

AFTERNOON SITTING

The committee resumed at 1628.

The Chair: We'll resume the hearings on Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex.

Mr Eddy: On the matter of time, I understand the House leaders conferred regarding additional time and that we are allowed to sit after 6 some time, are we? So I would ask for unanimous consent for the full 50 minutes for the town of Westminster.

The Chair: The full what?

Mr Eddy: The 50 minutes. How long did they speak for? I think their presentation was—

The Chair: Which one are you talking about here?

Mr Eddy: The last delegation we had, were they complete? Did they have their full time?

The Chair: Yes, they did.

Mr Eddy: They were full. Okay.

The Chair: Yes, they did. But we've got a problem right now in that the one to go on at 4:30, Mr Roger George, has a meeting with Elmer Buchanan. I know we're an hour behind. Is there any group out there that could do a switch with time to let them go on? It's unforeseen that we're here at 4:30, not 3:30, because of a vote in the House. We didn't know when we set up the agenda last week, so if you can just bear with us. Could you wind up just switching there? Okay, fine.

Could we have Wendy Lenders and Hugh Fletcher and Mr Roger George and who else is in the delegation there.

Mr Eddy: Mr Chair, while they're coming forward, I'd like to move for unanimous consent for the town of Westminster, which I believe spoke the last day we had hearings and I believe had 10 minutes of its full allotment. I would move that—

The Chair: I don't believe—I haven't got my records here, but—

Mr Eddy: Okay, I'll check it out and get back to you.

The Chair: —I can take a look at Hansard. We can tell about the time in there.

Mr Eddy: Yes, okay.

The Chair: I don't think I would ever cut anybody short at 10 minutes for a presentation.

Mr Grandmaître: Well, we don't know about that.

The Chair: Maybe you only had 10 minutes for questions there, Mr Eddy.

Mr Eddy: No, Mr Chair, it's not the questions. We can skip them. It's the presentations that I'm concerned about. Honestly.

The Chair: I know. We've been trying to be fair to every group here.

1630

ONTARIO FEDERATION OF AGRICULTURE

The Chair: Okay, if you would identify yourself before you start. We have until 5 o'clock. You may begin.

Mr Roger George: Thank you, Mr Chairman. I'm Roger George, the president of the Ontario Federation of Agriculture. I have with me Carl Sulliman, the chief executive officer of the OFA. Miss Wendy Lenders from Middlesex and Mr Hugh Fletcher from Middlesex will also be making presentations before the OFA ones. So I think, Mr Chairman, we want to start off with Wendy, if you would, please.

Ms Wendy Lenders: My name's Wendy Lenders. The county and the city have been chastised for not finding a local solution. I will admit I was somewhat disappointed in my local government and the county, but I'm not any more. I found out when I was here on October 29 that we did have a solution with approval on both sides. It was the province that put the kibosh on our local solution.

Now the province is to pass sentence of life in the city of London on many of the area rural people for a crime they did not commit. The province has a vision that London will experience rapid growth in the next 20 to 30 years. I wonder if this vision is similar to the one that Governor Simcoe had when he saw London as the capital of Canada. London would have made a lovely capital, but this did not come to be. I'm sure there are other centres in southwestern Ontario that would like just a piece of the action.

You are the standing committee on finance and economic affairs, but this is a land use planning issue. The purpose of this bill is to alter the boundaries of the city of London to increase the land base within the city's jurisdiction to meet the city's planning and development needs. If this sounds one-sided, that's because it is.

The size of the annexation has not been justified. The buffer zone has been put in place to keep annexation number 2 lands virgin of urban development. The idea of preserving farm land within the city limits, though the intention is good, will not work. You cannot legislate attitude. You are moving the farm land from urban shadow to farm land in transition. Farm land best protected in the province? I don't think so. My farm land is better protected than these lands.

This process and this bill are inconsistent with the Sewell commission mandate and the ministry's growth and settlement policy guidelines. I'm not against annexation, but the 1988 proposal, or boundaries similar to it, would be more appropriate. This would be a local solution and it meets the requirements set out in Mr Brant's terms of reference, except for the airport.

The city is already responsible for the servicing of the airport. Justification has not been shown as to why the airport should be in the city. This airport serves more than just the city or our county; it serves our neighbouring counties as well. I notice that Transport Canada is not on the list at the back of the Brant report. This is a list of people consulted.

This annexation proposed in Bill 75 purges the county. I don't want the city's blood money; I want fair compensation for a fair annexation.

I will supply you each with a copy of my letter I sent to Mr Brant during his hearings. I feel it would be worthwhile to this committee to have access to all presentations and submissions made to Mr Brant. You can see for yourself whether the people were listened to or not. The location and the allotment of time for these committee hearings have severely curtailed public involvement.

I'd be happy to answer any questions you might have, but before I do, I'd just like to make one suggestion. If Ontario is truly going to reform planning and development in this province, may I suggest that a committee be formed to deal with land use planning affairs and to hear issues such as these in the future.

Mr Carl Sulliman: My name is Carl Sulliman. I'm chief executive officer of the Ontario Federation of Agriculture.

Needless to say, the nomenclature itself will indicate to you what side of the fence we're on in this issue: the farmers'. We could spend a considerable lot of time here on technical details, but we're a farm organization. We're here representing farmers and we're speaking to elected political leaders in this province, and the political optics don't look good.

There are just two or three very quick points that I want to make to those of you who are elected men and women to the Legislative Assembly of the province of Ontario. One is the incomprehensible land grab that the city is doing in terms of its size and magnitude and the amount of planning breathing space that this is going to allow for it. We in the Ontario Federation of Agriculture only wish, this very day in November 1992, when 95% of the corn crop in this province is still sitting in the fields, that we could plan for next week, much less planning for 120 years for some city in southwestern Ontario. Frankly, the issue here is, how come every time we've got an urban problem there's a rural solution thrown up? Whether it's annexation or waste dump sites, it's just time and time again.

It's the inconsistency in process. The honourable minister, with whom we've met several times—and other representations have been made to him—promises integrity in the process. The integrity is not preserved and protected. We leap-frog over some of his own rules and regulations. We've got other annexation applications before the minister and we are dreadfully anxious about the implications and the precedents that this particular issue sets for the balance of Ontario. Simultaneously, you have the Sewell commission running around the province. We don't yet know what the results of that are and the implications for farmers and irreplaceable prime farm land in this great province of Ontario. Those are issues that we're not particularly pleased with.

Then there's the question that each one of you would be well versed in: political representation. Once you're gobbled up into a large urban centre like this, we know already that because of the demographics of the electorate out there, the rural population, farmers represent less than 3% of the population. You grab some of the finest farm land and the farm families who are on that farm land in a place like southwestern Ontario and you've just now

consumed them into yet another larger urban centre. I ask you, with a planning curve that allows you anywhere from 80 to 120 years, what is the future of that farm land and how can it possibly be justified in 1992?

These are just some of the key points. I don't want to talk a long time, because Roger and I are here to respond, along with Hugh and Wendy, to questions that the men and women of the House may have on this issue. We're very grateful to the delegation that deferred time to us and appreciative of the opportunity to come before you, Mr Chairman.

Mr Hugh Fletcher: In September I presented on behalf of the Middlesex Federation of Agriculture to the minister's presentation in London. Our stand, from the federation's point of view, has not changed since that time. You have a handout with you that includes that presentation. I have given up some of my time to the OFA, which has not, up until now, had the chance to appear before this committee in an open hearing.

At a time when politicians lack credibility, the decision comes down to this committee as to what type of government we have. Do we have good government? Do we have responsible government? Do we have good and responsible government? I must say there are some cruel and unusual jokes out there. I heard one yesterday. What is the definition of politics? It's a two-syllable word, the first half being "poli," meaning many, and the second half being "tics," and we all know that's uncontrollable jerks. That's a nasty one.

Mr Grandmâitre: But you're right.

Mr Fletcher: That's it. That is where we are looking at. Until something is done, until we see results from these hearings, from the meetings we had with Mr Brant in the first place, from the meetings we had with the minister, then is it all a charade?

The top page of the handout that I've sent around or that you should have is a letter to the former warden dated October 19 from Dave Cooke. In the third paragraph it says, "While I am aware that some are seeking a substantial modification of the boundaries submitted by John Brant, I am not prepared to entertain any changes in boundaries that are not minor adjustments."

The question to this committee is, who is running things here? Is it this committee that makes changes?

1640

Mr Carr: To some degree.

Mr Fletcher: To some degree? Is it the government? Is it one minister and his staff running things? That is the question for this committee.

All along, throughout this, Mr Cooke has touted the efficiencies of the city of London and its planning ability. It is now one year ago September that the city hall staff told the city of London that it needed to drastically increase its development fees. Last week it came back before council; it just came back before council. They're going to think about it.

This is a city too that is also now saying, "We'll have to look at services that are being provided for the annexed areas." Not "We will continue and upgrade services provided

to the annexed area," but "We will have to consider what services we think they need."

In the presentations made to Mr John Brant, the London Transit Commission manager made a presentation to him at 9 o'clock in the evening. He lives in White Hills, a subdivision approximately 20 years old. He couldn't make it home by public transportation because the last bus leaving for downtown to his subdivision left at 8:30. Transportation services don't really exist in that city.

The city council, this summer, has decided it should build a three-lane bridge on a four-lane major north-south artery. But we must remember, this is a city that has two expressways, both of them less than a kilometre in length, not connected at any point to either of them and they just go from A to B, here and there. There are no major studies I have seen or heard that they have major transportation policies, and this is a city that you, by going with Bill 75, will make the 10th-largest city in Canada. This is also, by doing that, increasing the land use. They are taking more land for annexation than land that was used for annexation purposes from 1981 to 1986. It is just ludicrous.

In regard to agriculture, if this goes through, there needs to be a strong agricultural committee. It has been suggested that an advisory committee be created. An advisory committee to a city council that builds a three-lane bridge on a four-lane highway isn't going to do much good. If they won't listen to their city hall staff for at least a year, why should they listen to an advisory committee on agriculture, of all things, within a city which is dedicated to development?

Earlier today you listened to the London and St Thomas Real Estate Board. Mr Eddy asked the question, if St Thomas wanted to enlarge, what township should it take? He was suggesting Yarmouth; I believe it's to the south of St Thomas. Am I right?

Mr Eddy: I think it's mostly to the north. Yes, I think between London and—

Mr Fletcher: Between London and St Thomas?

Mr Eddy: St Thomas, yes.

Mr Fletcher: That would be a foolhardy thing to do, because you have to realize, with this annexation as it is, there are only three blocks separating London and St Thomas. All of a sudden St Thomas would be a prime candidate for annexation by London. It seems foolhardy to have such a large, large annexation unless you can justify it, and I do not think, at this time, for these costs, it can be done.

Mr George: In conclusion, a very short statement: Earlier this year my vice-president, Jack Wilkinson, travelled along with Carl Sulliman, our chief executive officer, to Middlesex and the city of London for a three-day consultation with the farmers affected by this process. Now we're here at the 11th hour appealing to the members of the Legislature to put some common sense back into this flawed decision on behalf of the Ministry of Municipal Affairs.

What's at stake for our organization is the issue of land use, the whole integrity of the government process on annexation, as well as the preservation of farm land.

Quite frankly, my organization has recently indicated to the Minister of Agriculture and Food that we're not prepared to go on with the debate on land use policy in this province and the preservation of agricultural land till this government puts some integrity back. It's not only the annexation process but the site selection process for waste management sites and so on and so forth, because you're sending some awfully, awfully strange signals to the farmers of this province.

The Chair: I guess we have some time for some questions here, and we'll start off with Mr Carr.

Mr Carr: Thank you very much for your presentation. It's nice seeing you again. I know we talked last week about the many challenges facing your organization, and there are many. I understand with the switch in time that you have a meeting with the minister this afternoon. As you know, the Ministry of Agriculture got involved in some of the other projects. I'm thinking now of the Ottawa hockey rink. They've been strangely silent on this. What are you going to tell the minister when you meet with him this afternoon regarding this bill?

Mr George: We're not meeting with the minister on this particular issue in actual fact, so I doubt very much if that issue will come up, but we will have an opportunity to discuss it with the minister in subsequent times, and we've already indicated to the Minister of Agriculture in writing basically the same things we've been telling this committee for the last 15 minutes.

Mr Carr: In terms of the importance of the Ministry of Agriculture, why do you think it's been silent up till now regarding this very important issue?

Mr Fletcher: I think the Minister of Agriculture would have to answer that question.

Mr Carr: Would the parliamentary assistant like to indicate why the Ministry of Agriculture hasn't been involved in this process at all?

Mr Fletcher: If I may answer, they seem to have this strange rule where the Ministry of Agriculture does not get involved until you have a zoning change. So in actual fact, if this is not a major shift from prime land going into the city, if it is not really declared redundant, out of use, what not, once it moves into the city, any comment the Ministry of Agriculture makes at that time, at zoning time, is just minor.

Mr Carr: Let me ask Roger this. I think I heard you say that your organization doesn't want to participate if they're not going to listen to you on these issues.

Mr George: Absolutely. I made it very clear to Mr Buchanan we have not yet responded to his policy statement on food land preservation, and once again tonight, farmers across the province, at least in the regions of York and Durham and Peel, are sitting on pins and needles, waiting for another bombshell to be dropped on them in the morning by Mrs Grier on the short list for the sites for the Interim Waste Authority. It's just not good enough that this province is gobbling up farm land for these uses with scant regard to the use of prime agricultural land. We in the

Ontario Federation of Agriculture are just totally dissatisfied on that whole issue.

Mr Carr: I appreciate that one, because that's an important one.

The Chair: Mr Carr, I've got to carry on. The parliamentary assistant would like to make a comment?

Mr Mills: Yes, just a brief comment. You asked about the involvement of the Minister of Agriculture. This process was before cabinet, and the minister is a member of cabinet and was in that approval process. I'd like to say that the agricultural land was felt by the cabinet to be protected sufficiently through sound planning, not by the boundaries. So that's the decision.

1650

Mr Grandmaître: Mr Chair, can I reply on this one? How come the Minister of Ag and Food gets involved in official plans, when the official plans are being circulated to three, four, five, six, seven or eight ministries and Ag and Food is the most severe ministry when it comes to agricultural land, then how come the Ministry of Ag and Food is not involved in this troubling annexation which involves agricultural land?

Mr Mills: They will be. He will be.

Mr Grandmaître: They will be? When? After the annexation, they will be.

Mr Mills: In the approval of the official plan, Bernard.

Mr Grandmaître: In official plans, but this is much worse than an official plan; this is annexation.

Mr Mills: That's when he gets to comment.

Mr Sulliman: I guess the issue for us is that we haven't come here to finger-point at members of the executive council, at individual members of Parliament. The issue is that we come before a duly constituted committee of the Legislative Assembly of the province of Ontario saying that, for heaven's sake, this is the last chance for sober second thought on an action that we believe is not in the best interests of Ontario, much less the farming community. It just is a poor decision. It's not just the integrity question of the process; it's a bad decision.

We appeal to you as reasonable men and women elected to the Legislative Assembly to consider that as a committee and to take that back to the House with a very sincere representation on behalf of the people of Ontario. You are the last stop in this process for us, and that's what we're asking for today. We're not here to finger-point, to lay blame at anybody's doorstep. Let's take a second look, from a commonsense, farm-gate level, at a bad decision. Do it and do it now.

The Chair: When I saw you and Roger standing outside, I took it that you were here from the perspective of not only locally but provincially. I think all committee members realize that.

We go on to Ms Mathysen.

Mrs Mathysen: I have a question for Mr George and a question for Mr Fletcher. Mr George, this farm land, the minister has stated unequivocally, will be protected by regulation and will be the best-protected farm land in

Ontario. Can the city of London, can regulation, protect this farm land?

Mr Fletcher, you were present when we discussed the rural advisory committee for that rural community, the working farms, to be annexed, that representation before the London council. It was our feeling that it should be a committee with teeth and with influence that could truly advocate. What was the response of the city of London to that directive that it be a committee that indeed had some power?

Mr George: Mrs Mathysen, in response to whether or not the planning process can protect the farm land around London sufficiently, I throw back the question to you, has the planning process protected the farm land around Toronto over the years?

Mr Fletcher: In regard to the other half of the question, yes, I was involved with the meeting with the city of London. The city of London operates in its own weird and wonderful way, and it only accepts advisory committees if they are elected—their standing committees are elected people—so we could only be an advisory committee and they would just take us as that. Basically, we were told exactly where we would fit into the situation. It was not a consultation by any means. "This is how we run our show. Just because we are tripling in size, so what?" We're going to have one extra councillor, but it will be the same other 19 members of council who do, really, the dictating of things. It'll be business as usual.

Mr Grandmaître: Let's talk about the process, because every group we've met in the last five or six weeks wasn't too satisfied with the process. Yet there's a Municipal Boundary Negotiations Act in place, which wasn't satisfactory, I guess, to the minister or the ministry, who then appointed a single arbitrator, and then the minister had to send a letter of apology to every municipality in the province of Ontario saying, "Hey, this is unique," yet this is the model that will be in place for future annexation.

I want to ask you, why is the ministry or the minister—and I'm not finger-pointing or anything—

Interjection: It sure sounds like it.

Mr Kimble Sutherland (Oxford): Obviously I need a translator.

Mr Grandmaître: Why is it that, when at first you people were looking at the possibility of a 20,000-acre annexation and now it has reached 64,000 acres, why is the government going through with this? Being an outsider, why do you think the government is going through with this? Because we don't know.

Mr George: I guess we're here to ask the same question. I don't know either.

Mr Mills: I suspect you do know.

Mr Grandmaître: I'm asking the question and they won't answer my question, so maybe you can try your luck.

The Chair: Time is running out. I think a lot of good questions have been asked. It's good to see you again, Roger and Carl. Thank you for appearing before the

committee. I'm grateful that the other group was able to accommodate you. Have a good talk with the minister.

Mr Sulliman: We are very grateful, Mr Chairman.

In answer to your question, Mr Grandmaitre, it's been a long time since the United Farmers of Ontario were the government, so until it comes around again—

Mr Eddy: The election of 1919.

The Chair: Thank you.

Could we have Professor Andrew Sancton, please?

Mr Eddy: Mr Chair, while we have this short interlude, could I clarify the question I had previously? It had to do with the presentation of the town of Westminster officials. They had a joint presentation with the township of Delaware. Unfortunately, the township of Delaware took most of the time and the town of Westminster only had 10 minutes. I would like to ask for unanimous consent for the town of Westminster to complete its presentation. They feel they didn't have any time.

Mr Sutherland: I understand that, Mr Eddy. My only comment would be that many groups are on here. Everyone understands that some days the House goes later. We try to accommodate as many groups as possible. Some groups have been delayed. Groups last week didn't get their full time either. We've had groups in favour and against not getting their full time. I understand we had the town of Westminster in two weeks ago in terms of making a presentation then, so there have been groups officially representing the town of Westminster given their full time to make their presentations.

Mr Eddy: I thank the member for the information. Mr Chair, the members here may be aware of the fact that the House leaders dealt with this matter and allowed us to sit a bit after 6. Are you aware of that?

The Chair: Yes. I was told that we'd be sitting till after 6. They gave us permission because we knew the vote was in the House. If we got finished earlier, it would have been done earlier.

Mr Eddy: I know some people have to get away, too.

The Chair: I hope you don't leave early, Mr Eddy.

1700

UNIVERSITY OF WESTERN ONTARIO

The Chair: Would you please identify yourself for the purposes of Hansard. I would like to welcome you here to the standing committee on finance and economics.

Dr Andrew Sancton: Thank you, Mr Chairman. My name is Andrew Sancton. I'm a resident of the city of London. I'm employed by the University of Western Ontario, where I teach in the political science department, and my specialty is local government. I'm accompanied today by Councillor Joe Swan of the city of London, a former student of mine and also my ward councillor. I ask that he be allowed to use a few minutes of my time, because there are some aspects of this on which he's better qualified to speak than I am.

You have, I believe, my written brief that was sent before you decided on the extra day of hearings—I very much appreciate the fact that the committee decided to

have another day of hearings—and I think you should now also have a copy of the notes I have for myself today, so in fact there are two documents you have available to you.

I want to make three major points and two minor ones. The first is the lack of research that has been done on this large annexation. The second is the lack of support for the large annexation. The third has to do with joint servicing agreements. These are all issues which have been talked about considerably today since I've been here.

I have two minor points that haven't been talked about at all today, concerning the city/county liaison committee and social planning. If it looks like we have time I might just slip those in, but if I don't have time, they are in front of you in writing.

The first major point is this: I believe we are in this mess, and I think it is a mess, because the previous Minister of Municipal Affairs, Mr Sweeney, decided that London's 1988 proposals were not sufficiently comprehensive. I searched in vain for evidence or research that supports this position. There were no public hearings prior to this conclusion being arrived at and no comprehensive research was commissioned.

The closest approximation to anything like evidence is found in a December 1989 study for the ministry's fact-finder done by Huron-Middlesex Engineering which concerned hard services. Like all such documents in the boundary negotiations process, it was never made officially public, to my knowledge; one tracks it down with some difficulty.

That particular study says—and I'm only quoting this because we're trying to find some real research that's been done here and it's hard to find it—"The best option for Westminster's sewage is a new large treatment plant south of Lambeth that would discharge the sewage directly into the Thames River or into Lake Erie." But it says, "We can't look at this because it would cost too much, it's not a serious proposal," and no further study was done.

The report goes on to say: "A preferred option is the collection and pumping of virtually all town raw sewage into the city of London for treatment by their facility. Although this option may not be politically feasible, it is technically, financially and environmentally sound. If some form of negotiation and agreement are to result, this option should be investigated further."

I might be wrong, of course, but I see Minister Sweeney's intervention as an attempt to make this option politically feasible, but without allowing for joint servicing agreements. Of course, I want to talk more about joint servicing in a few minutes.

What was the result of Mr Sweeney's intervention? Westminster then proposed regional government, which was also later ruled out—I think quite rightly in the circumstance—and London proposed something much larger. I really think this is the dynamic that was happening here. The minister said, "We've got to have a more comprehensive solution." London said, "You want comprehensive, we'll give you comprehensive." And they just sat down and drew the lines larger on the map, not really expecting in their wildest hopes that this would actually

come to pass. That is what is so astonishing about this whole process, and it leads me to my second major point.

No one, and I repeat, no one I know of wants an annexation this large. As a political scientist, this is an absolutely fascinating process. We seem to be lurching towards a conclusion that no interest wants and so—it was a question that was asked before by Mr Grandmaître—one has to wonder.

Westminster and Middlesex are now willing to accept the original proposal that launched this whole process. This is not an obscure proposal, in 1988. This is the proposal that the city started the process with. Westminster and the county are ready to accept it.

I submit that most, if not all, city politicians would be thrilled to have the 1988 proposals as the final solution. The big question is, why won't they say so, except for a very few, one of whom is sitting beside me today? The answer—it's already been stated earlier today—is that they do not want this whole thing to unravel. They fear that if they don't get such a large annexation, they're not going to get anything at all. I think the same logic explains the position of the London Chamber of Commerce, the real estate board that you heard from today and probably many developers who hold land closer in to London. They support the large annexation because they're afraid they're not going to get even a smaller annexation.

If in fact the two alternatives are what's in Bill 75 and no annexation, I will tell you that I support the city's position. I've many friends in Westminster and they probably hate to hear me say that, but that's my position. London needs more land for growth. I support that position. But it is absolutely ludicrous to say that there are only two alternatives. There is a vast range of alternatives in between, including the city's original 1988 proposal, which, I repeat, has now got the support of the county and the town of Westminster as well.

On the subject of how things look from the city's perspective on this issue and other related issues that he wants to raise, I'll turn the floor over to Councillor Swan.

Mr Joe Swan: I was elected in 1988 to represent approximately 30,000 residents, covering much of the same area as the representative for London North, Ms Cunningham. Through this whole process, it seems to me, one event continues to lead to the next event, which seems to make the first event—it makes it look worse and worse as we go further and further into the process.

I remember when I was first elected in 1988 that the development industry had pushed hard for approximately 15,000 acres of land, because the city was in need of both industrial and housing land. Being somewhat sceptical of the development industry's claims about how much shortage there was, I had difficulty even accepting the 15,000 acres. The municipality's position was: "In order to ensure that we get 15,000, we'd better aim for around 22,000. That would be a firm negotiating position, and that way, if we have to take a setback, at least we're going to cover off what the development industry is telling us."

From that decision, Professor Sancton is correct that the minister, Mr Sweeney, sent the direction down that in fact it wasn't large enough. So the proposal came back,

"Well, where do we go from here?" The next thing that's reasonable is, "Perhaps we'll take over certain aspects of the assessment area around the town of Westminster." That wasn't good enough. The next answer to it was, "Well, I guess we have to take over the town." I want to tell the committee that it was even considered at one time that we should take over the county. That was a proposal that was discussed by our council. I mean, the logic and the rationale just began to build and build, and I think Professor Sancton is 100% correct in saying that the municipality and the council members I deal with do not want the kind of annexation that is being proposed today.

It's interesting that you did receive a report from three members of our city council. It's interesting that it's the first time I, as a council member, have seen it. It's interesting that it's the first time I, as a council member, have seen the figures in here. It leads to the question, how did we get here?

I have to tell you that the boundary negotiations process is not the best process. You'll recall that the old process used to have an OMB hearing, in which there was full public disclosure, in which the meetings went on for some time, with diverse interest groups. The boundary negotiations process is a very closed one. There's a very controlled information flow, where you have three or four people on a boundary negotiations team that controls the information.

I have to tell you that, in my view, as a full council this has not had full deliberation. I have been there since 1988 and spent less than 20 hours of council time talking about the future of London for the 21st century. I have to say to this committee that the fundamental issue is, can you slow this process down?

I could sit and go through amendment by amendment and perhaps try to work a few numbers or figures or so on, but really, and I say to the the Chairman, the question for the committee is not to go through with your amendments next week, piece by piece. The question is to go back to the minister and say that we think that this significant amount of land is flawed. I honestly believe, in my heart of hearts, not from being a "politic," that our municipal council, around a rational table looking at a smaller annexation that ensures controlled growth, you will receive that consent.

My final point on this particular aspect is that London was just recognized by the Financial Times as being the best-managed city in the country, and for that we can be very proud. But let me tell you how we got there. It was through very controlled growth. It sure was knowing where every nickel went before you jumped into it. I can tell you right now that financial projections for this annexation are simply scary. You will also know that the city is now back to the province asking for money, over \$7 million, looking for the province to bail it out. So when we say that the city can afford it, that the city has an unlimited tax assessment base in order to pay for this, it's clearly wrong; it's not the case.

I may leave it just there. I had wanted to perhaps talk a bit about the board of control, but we'll leave it for now.

1710

Dr Sancton: My last major point has to do with the question of joint servicing, or one municipality providing services to another municipality.

It seems to me, when you strip away all of these issues involved in this, that the issue of joint servicing becomes absolutely crucial to the whole debate. It's very important to realize that a key part of the city's strategy in its 1988 proposal was to propose joint servicing to the town of Westminster. What happened is that the city said, "We want X amount of land within our own boundaries, primarily for industrial development, and as part of the tradeoff for that, we will give up our long-standing opposition to providing services on a user-pay basis to adjoining municipalities."

So the city changed its policy on joint servicing to try to ease this annexation along. At the time, as somebody who wasn't involved in the process at all, I thought: "What a good strategy this is. This makes a lot of sense. There is the makings of a deal here."

Then, we see from the public documents, the public records and from everything I've heard since then, that it was the Ministry of Municipal Affairs that said this joint servicing agreement simply was not acceptable to its point of view. This, to me, is the great mystery of it. I simply do not understand. It makes no sense. As municipal services become more and more complex, it is the only way they will be able to be provided efficiently without constant structural reorganization, and surely we don't want that in Ontario or anywhere else.

One of the great ironies, of course—it's been mentioned before—is that John Brant himself, the arbitrator, recognized that joint servicing was the solution for the northern part of the city.

Are municipalities to be determined by pipelines and engineers, or are they to be determined by recognizing communities of people and giving them the right to govern themselves? Even the engineers don't believe that municipal boundaries must follow their pipes. I want to say in passing that still less should school system boundaries follow the pipes. I notice we have the chair of the Middlesex County Board of Education with us today, who has very legitimate concerns about what all this is doing to the school system in the area.

I don't like to engage in Ministry of Municipal Affairs bashing or bureaucrat bashing or anything else because—I was going to say some of my best friends are Municipal Affairs bureaucrats, and that happens to be true. But it seems to me that only the Ministry of Municipal Affairs has this peculiar hangup, and it is not one that's shared by ministries of municipal affairs or urban affairs or community affairs in other provinces.

The conventional view outside Ontario is that joint servicing arrangements are part of the solution, not part of the problem. Where's the evidence that joint servicing agreements don't work? And if they're not perfect, do we know that their effects are worse than what's envisioned by Bill 75? And what would their effectiveness be if the ministry invested as much effort in promoting, monitoring and improving the effectiveness of joint service agreements as it does in trying to manipulate boundaries all the time?

As I said in my original written brief, why do we have a municipal boundaries branch and not a joint servicing agreements branch within the Ministry of Municipal Affairs?

I do have these couple of other minor points, one concerning section 51, which provides for a joint city-county committee. I think I know why that provision is in there. It's because arbitrator Brant said there should be such a committee. The key point is that arbitrator Brant recommended that that committee have real authority to manage certain functions. Section 51 does not say that. I submit that section 51 is pure window dressing so that it looks like the legislation is following the Brant committee report. Since it's just window dressing I think it can go.

The second minor point is that section 57 says London "shall prepare and adopt a plan for the delivery of social services" for the same period as the new official plan. That is not what arbitrator Brant recommended. He recommended that social planning actually be part of the official plan, not that it be a parallel process. The minister saw fit not to include that in the legislation, another departure from the recommendations he said he was going to implement.

This is the irony here, of course. He's sticking to implementing the Brant boundaries without implementing the Brant package. There's so much focus on the boundaries that I think we forget that the process has now gone far beyond; it's quite a different set of proposals than what Brant originally recommended.

There's a kind of semantic debate about whether it should be social planning or planning for social services. The point I think is that the city of London council has no interest in social planning. It hasn't come to you and said, "We want to do social planning and we're glad to get this."

I believe that municipalities should be more involved in social planning. That, incidentally, is one of the reasons why I'm opposed to the principle of disentanglement, but this section, as it's written now, is worse than useless. Again, it is window dressing. If this committee doesn't think that the municipal council of London should take control over what the Ministry of Community and Social Services does concerning social services in London, then I think you should scrap the section altogether.

My conclusion is this. I make my living studying, teaching and writing about politics. I know how unusual it would be for a legislative committee to stop or slow down a majority government's bill at this stage in the process. That is exactly what I am pleading with you to do. As other people have said, this is bad public policy. It has not been thought through. It undermines our fundamental ideas about the purposes of local government. We can do better, much better.

You've heard from others that the process has gone too far now to change, but you know—I don't have to remind you—that we are talking about proposed sections of proposed legislation. Surely we are here to determine whether this process should go ahead.

So please do what needs to be done to legislate a much smaller annexation combined with joint servicing in Westminster. Please legislate what London asked for in 1988. I believe that's what local people want. I believe

that's a better solution financially. You'll be responding to deeply felt local concerns if you do that. You'll be defending the local government in this province. I believe that if there was ever a time for a legislative committee to show some real independence on an issue, this is it.

I don't know if Joe wants to say more about how he thinks the process might go from here.

Mr Swan: Just quickly, I suppose people may be wondering why I'm diverging so much from the current city position. It is simply because the original position in 1988 was a well-thought-out one, a well-documented one, a reasonable approach to the annexation. It took in enough industrial land and enough residential land to last us to the year 2026. It is a reasonable one. It is one that is now supported by both the county and the town of Westminster. It is the local solution that we've been looking for.

When I think about the preservation of the county and the town, I'd go back to an OMB hearing in 1961 that talked about the last annexation. The rationale they used for amalgamating the areas of Byron and a few others into the municipality was based on a community of interest.

It said that the existing three areas had a community of interest because they were in a urban environment. When we look at this particular annexation today, we are not talking about two similar units. We are not talking about two communities of the same interest; we're talking about very diverse interests. We are talking about townships that have different needs, different interests, different problems from the rural and the urban context.

I think that is an important principle we cannot lose. We cannot assume, through this legislation that's setting a precedent, that every other rural area, any time some service problems happen, gets amalgamated with an urban centre. That is just not good public policy.

I'd be remiss if I didn't read this, quickly, if I could, Mr Chairman, because my council board of control members are expecting it, so I wouldn't want to let them down.

"In determining whether or not [the board of control] makes a difference for a municipality, two factors should be considered. First, if the board of control is an important feature of a municipality's governance, one would have to question why the province does not appear to display much confidence in a board of control system."

I'm going to read quickly: "Eight of 11 boards of control were abolished by the province, with six of those eight boards of control being abolished by the province without a specific request to do so. The province has never refused a request of the municipality to either abolish an existing board or dispense with the need to establish one."

1720

In 7 of 11 cases where the province restructured the local governance of a particular region of the province, including Metropolitan Toronto, Durham, Haldimand-Norfolk, Halton, Peel, Sudbury and Waterloo, it has specifically prohibited the establishment of boards of control and, in so doing, the province also dissolved the existing board of control in the city of Sudbury and in the city of Oshawa.

The last point: The province has prohibited all upper-tier regional municipalities from establishing a board of control, notwithstanding the fact of their larger budget, a higher level of debt and a volume of contracts that would far exceed those in the municipality.

Quite clearly, in order for our board of control to be eliminated, we need a two-thirds vote of council, and when you're sitting with five members who are very unlikely to vote for themselves, it just takes one or two and they hold the vote. They have done that in the past and I would expect they will be able to maintain that in the future.

The question to this committee is clause 5(b); it should have no reference to board of control and it should be eliminated.

The Chair: Okay. We'll go to Irene.

Mrs Mathysen: I have a question for Professor Sancton and one for Mr Swan.

Professor Sancton, in your presentation you talked about the dislocations that boundary adjustments create. Could you briefly describe some of the dislocations that this adjustment will create? I know you're not as expert as Mrs McIlmoyle about the educational disruptions, but perhaps you could touch on those.

Mr Swan, you mentioned that there hadn't been a great deal of discussion within city council about Bill 75. I wonder if you could comment on what you see down the road in terms of the effects the current bill will have on the city of London, any detrimental effects, any problems that you can foresee.

Dr Sancton: On the first point, the dislocations, I think there have been other people here today who have testified to that far more eloquently than I can. I think particularly of Susan Grieve and some of the other people who live in those areas.

On a more technical level—again, I'm by no means an expert on this—we get into these issues of communications—police and fire communications, for example—where the city's communications systems were designed for a city of a particular size and now all of a sudden it's tripled, so you get into huge expenses associated with that; the existence of volunteer fire people in Westminster and the fact that that whole way of life would be dislocated, and of course it's going to cost more to have full-time fire people doing it.

On the school front, it really does seem mind-boggling that this whole process could somehow have gone along with the school boards sitting out there as very partial players, being chastised by arbitrator Brant for not doing all the research, as though annexation was going to happen, yet they weren't involved in the process to start with. Every time I read about it or hear about it or talk to any of the school people about it, I'm just appalled at the situation they're in. As a parent of young children, I can imagine how awful it would feel to be out there, not knowing how this whole system is going to affect the busing of your children from one place to another. It's just an awful mess.

The Chair: Mr Eddy, one question.

Mr Eddy: It's interesting, the comment on board of control. Most of them have been abolished. I believe it was

Paul Hickey, who did a study on local government, who said the board of control system is designed to keep information from the members of a council. But we won't dwell on that.

The question I had was in regard to the city's presentation. You have a copy of the city's presentation. Was that at this committee?

Mr Swan: Actually, I found it on the—

Mr Eddy: I believe you've said this is the first time you've seen it.

Mr Swan: That's correct.

Mr Eddy: And it's the position of city council? Mr Chair, I submit, in my experience the only way you can have a presentation representing the view of the council is to have a certified copy of a document adopted and passed by a council. I rest my case. I think it's terrible.

I want to ask about a lack of research on annexations, your position that indeed an impact study should have been done in this case and why, as in all other annexations. Would you comment on that?

Mr Swan: Again, I went back and did my homework on the 1961 annexation. There were significant studies done to ensure that the cost and the feasibility of annexation were well thought out, well prepared and we clearly understood the implications on the tax base.

In this particular case, it's just a giant leap of faith. They just think economic growth is going to happen, and what's interesting, as someone mentioned before, is that we now have detrimental effects. We now have to look at our development charges bylaw, which you can expect either to double or triple, which will be a disincentive to economic development.

You can look at tax increases. I notice in this report it's 2.7%. Recent numbers are certainly going to take that up close to the 4% or 5% at a minimum, plus cost of inflation. Before long, we're looking at double-digit tax increases, and I quite clearly know what the answer's going to be at our council. Who did this? The NDP.

Mrs Cunningham: I very much appreciate the presentation we've just heard and certainly share the views of Professor Sancton in this regard, because it has been a point of frustration, the size of the annexation.

I have a question for either of the presenters or the ministry. In discussing this alternative earlier today with the government, I was advised that there is a financial—how should I put it?—responsibility on behalf of the government if in fact it was to view this as—I'm now talking about the alternative that you're wanting the committee to look at, or to recommend to the government to look at, because we can't look at it.

Andy, you know how things work around here. Unless the majority of members say this is worthy of further review, it doesn't work because the numbers wouldn't lend themselves to that, no matter what.

So I have to say, is there in fact, to your knowledge, a responsibility on behalf of the municipalities if in fact they were to go with the recommendation that you've put before us, and Westminster and Middlesex agreeing to this new plan? Is it not the case that the government of

Ontario would have to subsidize those municipalities with grants in order for them to retain the services, given the loss of revenues from taxpayers? Is that not the case? If you can't answer it, we'll ask the government.

Mr Swan: If I might, Andy, I understand that under Bill 75, in fact, compensation payments have now reached over \$30 million.

Mrs Cunningham: No, I'm talking about ongoing grants to the municipalities in order for them to retain the services they now have and advance, as any other municipality would in the next decade, if in fact that was put forward as an alternative.

Dr Sancton: This is obviously a complex technical subject. Let's put the most extreme case of joint servicing arrangements, which would be if the city of London were to provide water and sewer services for most of the residential area of Westminster.

Mrs Cunningham: Of the smaller annexation, which would be their responsibility.

Dr Sancton: Yes. One way of doing it would be for the residents of those areas to pay the cost of water and sewer directly in their bills to the city of London. Exactly how the accounting would work I don't know. That's the most extreme form. If it were done in that way, on a user-pay basis, it simply would not be a financial burden on those municipalities. There are, of course, different ways of doing it that might work out differently.

The Chair: Okay, I'm going to have to go to the PA here. He's got a few comments.

Mr Mills: A couple of comments, Mr Chair. The position of the Ministry of Municipal Affairs in so far as joint servicing is concerned is that we feel that it's not good long-term planning, for two reasons. One, we feel that the people should have a vote for the government that provides their critical and basic services and, two, we feel that it encourages continued fringe development, which, regardless of the user-pay for hard services, does result in increased use of the host city's soft services by users who aren't paying for them.

Dr Sancton: On the first point, life is more complicated than the ministry's views on that. It's simply more complicated and we live with those complications every day.

On the second point, the ministry has promised us that it's going to stop fringe development it doesn't want. This is the whole point of Bill 75. If indeed it can do it for Bill 75, on that basis it can surely do it with Westminster and some other places receiving such services on a user-pay basis.

The Chair: I'm going to have to cut it off because somebody's going to say I let you stay on longer than someone else. Thanks for appearing before the committee.

Mr Swan: Thank you for the time.

1730

The Chair: Could I have the Thames Region Ecological Association come forward?

Mr Will Ferguson (Kitchener): Mr Chairman, while those folks are sitting down, could I just ask something? The member for Middlesex asked a question on the 4,500-unit figure for housing supply. Now, the answer that came back is—

Mrs Mathysen: Gobbledegook?

Mr Ferguson: Well, somewhat nebulous.

The Chair: I didn't get the answer myself.

Mr Ferguson: Let me put this question: How many hectares are registered for development in the city of London, and is the 4,500 figure correct or not? It doesn't serve this committee any purpose at all to talk about the number of years' supply, given the density of lots, as well as whether or not they comply with the policy statement. I mean, who cares if they comply with the policy statement? How many units are they building in an average year, are being developed in London, and how long would the 4,500 units be expected to last? Are they building 500 units a year?

The Chair: Okay, we've got that down.

THAMES REGION ECOLOGICAL ASSOCIATION

The Chair: We've got 15 minutes and there's another group that's coming on for 15, I believe, that was shared in that half-hour. So if you wouldn't mind, identify yourself for the purposes of Hansard and this committee, and you may begin.

Mr Sandy Levin: My name is Sandy Levin and I represent the Thames Region Ecological Association.

Thank you for the opportunity to appear. However, we are dismayed to see the ministry's proposed amendment to the section 29 of the bill, which will limit the requirement of a new official plan to just the annexed areas. For a number of reasons, it is important that London have an official plan for the entire city with clearly stated environmental protection.

For example, the current official plan does not have a policy for developing setbacks from atop a bank, nor a policy on significant ravines. Work was commenced on these policies in 1991. Drafts were prepared and sent back to the planning department for review late in 1991, and there they sat until recently brought to the attention of the planning committee by the local field naturalists. The planning committee voted to defer further consideration of these policies until the new year.

Voting at committee for the deferral was the deputy mayor, who told this committee on November 5—and you can refer to page F-184 of Hansard—that “London has an appropriate policy framework...to provide for the protection of natural features” such as ravines and steep slopes.

Also during the November 5 hearings, the mayor avoided answering Mr Winninger's question as to whether or not there will be development in the annexed areas until there has been a very real inventory of environmentally sensitive areas and agricultural lands that need to be preserved and protected. See pages F-189 and F-190.

We conclude that these actions and statements, plus the desire of the city and the stated position of the London Development Institute, on page 193 of Hansard, to reduce

the number of items included in section 30 of the bill mean the city is reluctant to do more to protect the natural environment. Therefore, we conclude that London needs revisions to its existing official plan spelled out in either regulation or legislation.

Furthermore, although the ministry quite correctly points out that London's 1991 official plan has been approved by the minister, it ignores the point that work leading up to the plan is now nearly five years old. Even the city's planning department agrees. In its May 1992 draft document entitled *The New Official Plan: An Approach*, the planning department states that the process of preparing the existing OP was based on a city with constrained boundaries. On page 7 of this document the planning department states that its desire to develop “a comprehensive, strategic and open approach to planning for growth and development would involve the identification of natural limiting factors to growth and then develop a system to provide for growth that does not exceed those limiting factors.”

The planning department went on to say, “Such work would include identifying agricultural lands beyond any proposed service area, and the issue now is the appropriate development pattern within the expanded city.”

Therefore, we urge you to defeat the ministry's proposed amendment and substitute the following, based on the most recent draft from the Sewell commission:

“The city will update its existing official plan by including statements of goals, objectives and policies on, but not limited to, the following:

“Hazard lands such as land subject to flooding, erosion or instability;

“Natural features and systems such as wetlands, recharge areas, ravines, river valleys, stream belts, floodplains, corridors, woodlots, wildlife and fish habitat, and classes 1, 2 and 3 agricultural land and specialty crop lands.”

We are also concerned that the much-heralded protection of farm land announced by the minister and contained in the fourth draft of the provincial planning policy statement being prepared by the Sewell commission will come to naught because of the ministry's proposed amendments to 32(2). It is not clear what official plan amendments the minister will approve in the three years prior to the adoption of the new official plan set out in section 29.

We also feel that the legislation appears to allow the rezoning of land in the areas to be annexed, including agricultural land, to commence and be approved prior to the adoption of the new official plan. Subsection 12(3) suggests to us that any land that comes into the city as agricultural but is at that time the subject of a rezoning application, won't be allowed to be rezoned. At a bare minimum we ask that this section or the accompanying regulations to the act clarify the requirements and conditions for the redesignation of lands designated primarily for agricultural and open space uses in an official plan to other uses.

It is clear the province wishes to promote and encourage economic development in the greater London area. While we agree development will take place, we differ with the province's view that traditional manufacturing

will continue to locate in southwestern Ontario. We feel London's comparative advantage is in medical research and financial services, neither of which is land-intensive. Therefore, we have opposed this annexation.

We had hoped to see more environmental protection in this bill. We have real concerns as to the city's commitment to sustainable development and the environment. After all, London was the last city of its size to institute a blue box recycling program, which still does not take rigid plastics, London still does not collect recyclables from most high-density developments, and the majority of yard waste continues to go to landfill because there isn't a municipal composting program.

Mr Cooke's June 18 statement on annexation promised protection for the natural environment. However, we're still searching for the word "environment" in the bill. The frequent references to the environment during these hearings have been in relation to sewage. To us, the environment is more than just sewage. We hope it is more to you as well.

The Chair: We'll start off with Mr Eddy.

Mr Eddy: Thank you very much for your presentation. I appreciate your expressed concerns about the environment. Does the present city have environmental problems at the present time, and what are they that you would see?

Mr Levin: It depends. What do we call environmental problems? We're not talking about sewage now, right?

Mr Eddy: One of the things that's always concerned me is—I've talked to people near the Greenway sewage treatment plant, for instance, and others. I agree with you about the new areas. The bulldozing and creating environmental problems by ignoring the environment is very serious in most developing municipalities, but I'm wondering about the present city itself and things that you would see about it that should maybe be improved first.

Mr Levin: A transit system that has recently cut 71,000 service hours. They can't presently service a subdivision that's going up now called Hunt Club Estates that's within the current city boundaries; Lord knows how they're going to service the rest of the area.

Secondly, continued encroachment on identifying natural areas, including Sifton Bog, which is a class 1 wetland; and the current bulldozing and development of the north part of the Thames River valley, which was the subject of an OMB hearing in which one of the last natural areas along that stretch of waterway is going to house 15,000 people.

1740

Mrs Cunningham: Thank you, Mr Levin. I've heard you on a couple of occasions and it's always refreshing. You're talking about what you want included by section 29 in the official plan. You want that in the act—or do you want it in the regs?

Mr Levin: We'd prefer it in legislation; we would accept it in regulation.

Mrs Cunningham: I suppose there aren't very many municipalities that would be directed in this regard to this extent via legislation or regs as to what they ought to have in their official plans. Is that correct?

Mr Levin: As I understand it, that would be correct.

Mrs Cunningham: That doesn't mean to say we can't start somewhere though, does it?

Mr Levin: I agree.

Mrs Cunningham: With regard to your comments about London and the medical services or the reputation we have with regard to the medical research we're all so proud of, you did say there wasn't a great deal of additional land use in that regard.

Mr Levin: They're not as land-intensive as, say, major manufacturing, which I think ultimately is the desire of this city to attract.

Mrs Cunningham: I agree with you in that regard, except that the new Siebens-Drake goals would be to do a lot of agricultural research, and in fact they are using lands now. They're looking at pesticides and I think they'll be looking at a whole lot more. I was involved in that and I hope they will need a lot of land, because I think the research itself is extremely important. I, of course, would like to see it in London and Middlesex. That's just for your information.

The Chair: I've got to go on to Mr Winninger.

Mrs Cunningham: Finally, I just think that the request for environmental—

The Chair: Mr Winninger.

Mr Winninger: I'm sure you won't dodge my question. At the time the minister held hearings in London last September, he invited you to become part of an ad hoc process to assist the transition committee with the identification and treatment of environmentally sensitive areas, because that was one of your key thrusts last September. I wonder if that process has unfolded in a positive manner.

Mr Levin: The point they're at is that there is a task force on government restructuring and it has made a proposal for two advisory committees on the environment, one to have input on the official plan of a technical nature, and another, more of a citizens' group to advise on general environmental issues. I haven't participated in that process yet. I'm going to a meeting of the Thames Region Ecological Association to look at the draft that was prepared by the city and then the city will again look at the draft. I'm attending a meeting on November 26 with members of that task force. I think it's still been city-directed rather than a consensual meeting, but it is moving along.

The Chair: I've got to cut you off because we've got another group coming on. I'd like to thank you for appearing before the group here today.

Ms Mathysen: Mr Chair, while the group is coming on, can I put something on the record here? It's actually the answer to my earlier question and I'd like it on the record.

My question was with regard to how many housing units were available. According to a city of London water study report done by Dillon, there are 32,000 housing units already approved, waiting to be built. The zoning has been approved. As of November 5, London built between 2,500 and 2,700 units per year. So by my calculations, there are over 10 years of available units there.

The Chair: Thank you.

CLEANGREEN

The Chair: The next group is Cleangreen. For the purposes of Hansard and the committee members, if you wouldn't mind identifying yourselves, and you may begin. We have 15 minutes in total.

Mr Philip Rubinoff: My name is Philip Rubinoff. What we wish to address to you today are (1) London's proposed dissolution of the entire town of Westminster, (2) 25,000 acres of A-1 farm land, (3) London's W12A landfill enterprise, and (4) their relationships to Bill 75.

Mr George Knowles: My name is George Knowles of Westminster. In 1981, the city of London's most powerful unelected post, the administrator, structured, organized, manipulated and managed the whole process. He was the sole architect of the annexation drive, and power was the reward.

On April 1, 1992, the Brant report was released. Westminster was to be annihilated and the elected municipal government abolished. Despite section 29 of the Municipal Act, one person appointed, not elected, would represent all the people—a person who ignored the people and instead wants to give away the finances, health, security, cleanliness, comfort and ornament of the municipality; a person who publicly announced that the Minister of Municipal Affairs was his boss, not the people who had originally elected him.

Also, the city's landfill site would be expanded to become a regional dump in Ontario, with tipping fees for financial resources.

Fact: Only from May 1989 to late 1991 did any meetings take place between Westminster and London. Finally, 11 years in the making by the architect, this report is now referred to as a done deal.

On June 18, 1992, Bill 75 was released by the Honourable Dave Cooke, Minister of Municipal Affairs, implementing the Brant solutions, leaving out only the London landfill site until after January 1, 1993. At this time, London would have full control of Westminster and its 25,000 acres.

Why would London want to annex a facility located so far beyond the Westminster industrial lands it claims are needed for employment and economic opportunities?

Mr Rubinoff: Two reasons:

Total control: London wants control to (1) keep costs low, (2) operate flexibly to serve large industrial and commercial operations, and (3) ensure little opposition, if any, from citizens' groups.

Financial: A regional waste disposal site is a potential cash cow, \$30 million to \$50 million annually, presuming a business operation with full user-pay, enough to finance London's annexation.

In 1991, landfill disposal sites in North America listed on stock exchanges from \$26 to \$49 per share. Incidentally, new car sales in 1991 were \$80 billion. In 1991, \$120 billion was made on residential garbage alone. In 1992 and after, this dollar total on residential waste will increase by 10% each year for the next 10 years. After January 1, 1993, what's keeping this landfill enterprise from becoming part of the billion-dollar cash cow business in North America?

I now quote from a June 8, 1992, letter from London's Mayor Gosnell to the Honourable Dave Cooke, Minister of Municipal Affairs. "It has been and will continue to be a prime concern of London city council to include the W12A landfill site as part of London."

What is wrong with annexing a facility so far out?

Mr Knowles: (1) It makes the annexation needlessly large in that the town of Westminster loses so much land that its economic viability is destroyed, and all must be taken—the end of a town—to satisfy a senseless power grab.

(2) The needlessly large annexation brings unstoppable urban pressures on agricultural land.

Let's not kid ourselves. Large urban centres have the financial and political clout to overcome land use regulations. Current Ontario Ministry of Agriculture and Food policies are reactive, not proactive. Now 25,000 acres of A-1 farm land will be lost here.

An example of London's record in stewardship of the land: London, in May and June, 1992, purchased 225 acres of land adjacent to the existing W12A disposal site. What did it do wrong? It violated the guidelines for the new official plan for the expanded city of London. Reference, item D: "Preserving specialty crop land and directing growth to lower-quality lands."

Economics chosen over the best farm land. Land was purchased before, and not conditional to, approvals. It's the cart-before-the-horse story. This makes environmental assessments and land use planning policies virtually useless.

With London's vast expropriating powers, pre-purchase makes no sense. London did not even make a simple land purchase without letting speculators flip land deals. London paid \$1,430,000 for 225 acres. Speculators made a 53% profit on the three deals, a total of \$764,900, creating inflated land values from \$2,500 per acre to double and triple and up to \$9,200 per acre over a wide area. So much for affordable farm land: more speculators, developers and trucking operations to systematically destroy 25,000 acres of agricultural land and turn its vitality into a wasteland.

1750

Mr Rubinoff: London's record in dealing with Westminster: Only in 1990, when litigation was initiated, did London stop dumping toxic fly ash in W12A. We are now left facing a virtual time bomb: over 8,000 tons of toxic fly ash in 35 acres alone in cell 4 of the dump.

We have discovered, through our own investigations, that the management of the dump has been continually breaking its agreement with Westminster by allowing in wastes from outside its designated area. The ICI wastes brought in are in large volumes of known contaminants and toxic materials. We have a long list of violations, either due to lack of professional management or corruption, in the form of certain people being paid off to look the other way. Why? Because there's big money in tipping fees and contamination waste.

Again quoting from Mayor Gosnell's letter of June 8, 1992, keeping in mind what I've just said: "The city, through the development of this excellent facility, has

shown sensitivity to the surrounding properties as well as long-term environment planning on an issue that is causing grave concern in most other municipalities in Ontario." Ladies and gentlemen, that's a lot of garbage. London's done nothing about the problems arising in and around W12A in Westminster.

Mr Knowles: What has London done for the rural areas of Westminster?

(1) Stolen our water until in 1990 contamination set in on London's PUC wells north of the W12A site;

(2) There is contamination and toxic waste buried in productive farm land areas;

(3) We have documented proof that the wells of the neighbouring properties are badly contaminated. As the dump continues to operate as is, the problems will surely worsen. The contamination is spreading through leachate into the two ground aquifers on which we all depend for our water in Westminster and the areas beyond.

"W12A meeting, October 17, 1991:

"Mr Peter Huras from the Ministry of the Environment stressed the sensitive nature of these well site problems and the fact they have been handled on an individual basis. It is his hope that this will not become a political issue during the upcoming municipal elections" held the following month, in November 1991. Why was this kept from the public?

Mr Rubinoff: Speaking for many residents of Westminster, with the kind of operation W12A has, we don't want the dump expanded, at least until it is in the hands of proper management and the problems addressed and corrected entirely. We are attaching a number of lists compiled by our colleague, Mr Eugene Morrison, who happens to live across the road from W12A. Mr Morrison has firsthand experience in these matters. Our list includes design philosophy, current problems, short-term and long-term recommendations needed, and legislation for landfill waste disposal operations in Westminster. "We are the garbage capital of Ontario." No to this annexation farce. Let's restore democracy.

Mr Knowles: Start by doing an impact study now with the local government consensus and the resolution passed by the town of Westminster on October 28, 1992, by rolling back to the 1988 annexation proposal. As the booklet stated, "Let's Grow Together," Gosnell and Co. Be honest, place everything on the table: all the acreage needed, all on joint services, all user-pay services, all costs and finances. Further, take two years for this impact study. Then in 1994, at the next municipal election, let the voters decide their future, not the architect, the developers or the wheeler-dealer speculators.

Mr Rubinoff: We thank you for your time. In closing, I ask you as elected representatives to read, study and discuss in depth all submissions before you. Make your decision on what is morally right. Don't follow the party line when it's the wrong line. Amend Bill 75 to make it a free, democratic bill of legislation in the province of Ontario.

Mr Knowles: Finally, in closing, to the Chair and the standing committee as a whole, re the subject of Bill 75, we thank our member of the provincial Parliament, Irene

Mathyssen, Middlesex, and we stand beside Irene 100% about an annexation that will be done without a study of the impact on the lives of citizens of Westminster and the county of Middlesex on January 1, 1993. I thank you, ladies and gentlemen.

The Chair: Thank you. You used 15 minutes for your presentation; we maybe have 15 seconds. There's one question I'd like to ask. What kind of toxic ash is at the dump, the fly ash, what kind?

Mr Rubinoff: That's the fly ash from the hospital, Victoria Hospital, Westminster campus.

Mrs Mathyssen: Mr Chairman, there's a serious problem here. What these gentlemen have basically said is that the certificate of approval for that waste site has been violated. That is a serious accusation, and we need to know what kind of proof there is, because they're talking about a criminal activity.

The Chair: Okay. If we could get some copies of that for all members of the committee.

Mr Knowles: We've left the clerk 25 copies of the speeches, and we also left him one copy of the document section and we asked him to print the rest up for you, gentlemen and ladies.

The Chair: As long as we get one copy, the clerk can make the other copies. Thank you for appearing before this committee.

Mr Ferguson: Mr Chair, just while the next delegation is sitting down, the previous delegation, Councillor Swan, mentioned that when the city of London made its presentation, in fact it could be more appropriately described as Mayor Gosnell's presentation as well as Controller Hopcroft's. I think it would be important for the committee to know whether or not that presentation has in fact been endorsed by London city council.

The Chair: Good point.

1800

THE PARTICULAR COVENANTED BAPTIST CHURCH OF CHRIST IN CANADA

The Chair: We have Elder Stewart McColl, our next presenter. Would you identify the group you're representing also, because I think there were a couple of groups that possibly you're here representing; is that not correct?

Mr J. Stewart McColl: Permit me first, Mr Hansen, on behalf of our church members, to thank you for getting the time extended for these hearings and for allowing us to speak to your committee concerning Bill 75. When I left here three weeks ago, I think it was on Thursday night, Thursday at noon we were left with two half-days, essentially, for all the presentations we wanted to make in Middlesex county. I said that was a travesty of justice. You said to write a letter. I wrote a letter, which you received; I went home and I made two phone calls the next morning, one to my clerk and one to the Citizens Against Annexation, and they in turn took up that work, and the next time I came back you had four pages of phone calls and letters petitioning for this day. I want to thank you for getting this day. I want to suggest also that next time you

face a problem like that, you just ask me and I'll ask them and they'll be glad to help, because we'll get another day. I appreciate your integrity, sir, because you did that with sincerity, as we did with sincerity, and I thank you for it.

The Chair: I can tell you that my mailbox has been full for quite a few months from letters from Middlesex.

Mr McColl: I'm sure. This submission is from the Particular Covenanted Baptist Church of Christ in Canada, an independent church which was established in the wilderness of Canada west in 1818 by Scottish immigrants who were squeezed off their land by the Highland land clearances and by religious persecution.

This submission is given by yours truly, Elder J. Stewart McColl, who is a fully ordained minister of God and pastor of this church, serving its four meeting places, two of which are in Middlesex county. I farm along with my ministry to help support our income, because we do not believe in a salaried ministry. Rather, we believe that Christ's pattern on the mount, whereby he called his disciples from every walk of life to both live and labour among his people, is still just as relevant today as it was 2,000 years ago.

I'm going to skip parts of this as we go, because I haven't time in the half-hour to present it all.

To begin with, permit me to inform you, on behalf of our church communities, that we are not "campers," we are not dissidents, we are not pedlars and we're certainly not parasites away out there in no man's land. Moreover, although we hope to be counted among "the remnant according to the election of grace," we hope never to be counted remnants of the county of Middlesex. Neither do we wish to be called residents of the greater London area. Note my point: Rather, we are residents of Middlesex county in general and a specific constituent municipality in particular. There are 22 of them in Middlesex county—note 22—each one a community of people which is economically viable and socially vibrant in its own right. By the grace of God, we wish to inform you that that's the way we want it to remain: 22 viable communities.

We wish to address Bill 75 candidly but without any malice or prejudice from the five following points of view: our reaction to the autocratic process; our response to the muzzling process so that the Minister of Agriculture is not allowed to speak on these issues and so on; our examination of the notorious statute, Bill 75; our proposal for a peaceful and plausible escape from this notoriety, and our vision for turning error into a blessing, if the Ontario government and the city of London are willing.

Before we begin, we wish to point out that we have come as friends of Middlesex county, the province of Ontario and our beloved Canada, willing to admonish both the Ontario government and the city of London, in love for the good of all.

I'm going to leave A and B. Those matters have been dealt with, they're on record and if the Ontario government and the city of London are both willing to be reasonable in this proposal and make reasonable modifications, we'll let bygones be bygones. So let's get at this bill.

This Bill 75—and I'm going to ask it beginning and end—should not go anyplace until there is a full environ-

mental study and a full financial study, because I'd like to know the impact of this bill, when Middlesex county has 24% of its manufacturing jobs in the agrifood industry, and I'd like to know its impact on rural demolition and I'd like to know its impact on the sewage disposal systems, which I'll bring out later in the form of a map, and on the natural environment.

First of all, let it be known that we doubt whether 75 is the creature of a shrewd politician such as the Honourable David Cooke or, for that matter, his parliamentary assistant, Mr Gordon Mills, because neither one of these gentleman has shown that much familiarity with its details. In two days in London, we watched Mr Cooke, and he always had his coaches with him, and we have seen the same here with Mr Mills.

Rather, we believe this is a bill that's been designed by the civil servants. My question has to be, and the question our people are asking is, who is running this government? Is it the New Democratic Party and the Ontario government or is it the civil service? Not only the civil service in Toronto, but is it partly the civil service in London? I leave that question for you, because that's a serious question.

First, Bill 75 is explosive because it's founded on the concept of Mr Brant's report that the need of a municipality pre-empts its existence. Think of that for a moment. Once a smaller municipality shows any need to service, it means a local neighbouring municipality which is stronger and has more money and is more powerful can take it over. That's the meaning of that concept.

That's bringing into the municipal world the dog-eat-dog takeover syndrome of the transnational companies. That's what has set this whole municipal world on fire right across Ontario, because every municipality today is watching what's going to happen with Westminster, Delaware and London township etc when they live beside a giant like London.

Second, this bill is legally deficient. It doesn't even define what a municipality is. I compare it with Bill 35. There is no definition in this Bill 75 of what a municipality is. What is it? It's defined in the Municipal Act—I dug out my old one and I had to dust it off—from away back in the 1940s: "'municipality' means a locality the inhabitants of which are incorporated." If you go through the municipal definitions, it says city, town etc are bodies corporate.

If you examine this bill, there's no indication that people count. It's simply dealing with lands and portions and areas all the way through it. The body corporate of each community is ignored. In other words, Bill 75 is treating each municipality as if it were no more than a piece of dirt.

Also, the judgement of the judicial review does note the meaning of a municipality in identifying the parties involved in the review. It still places the emphasis upon the lands being transferred from Middlesex county to London, without recognizing the upheaval the issue is causing among the people. Likewise, the editorial board of the London Free Press equates the issue as no more than the gain or loss of surrounding territory. The people don't count.

Bill 75 is also legally deficient because, in failing to realize what a municipality is, it fails to understand what is really involved in an annexation. As a result, Bill 75 treats

this annexation as a simple boundary adjustment or a boundary change rather than the dissolution or mutilation of a community of people as a body corporate. In reality, this annexation causes the complete societal upheaval of an entire community and the partial upheaval of four other communities.

The dissolution of the town of Westminster and its local boards means that the body corporate, ie, the people of Westminster along with their respective lands, will be totally fragmented, some going to London, some going to Delaware township, some to North Dorchester and some to Belmont in another county. Verily, the body corporate of the town of Westminster will be drawn and quartered and literally cast to the four winds. Because this will be done against the express will of the people, we believe it to be a gross violation of human rights.

A lady the other day in this corner said Westminster will still be there, and that's not true. Westminster will be gone and it will be drawn and quartered to the four winds and never appear again because this bill is simply treating annexation as land with no relation to people.

Bill 75 is incomplete and misleading in so far as its name is concerned because it doesn't state on the outside that an entire town, along with its boards, is being dissolved, that the public utilities commission in the city of London is being dissolved, that it's annexing land even to another county and that it's actually appointing someone to an elected office. The name of the bill itself is misleading. How can that be passed in this House when the name of that bill does not describe what's happening in its contents?

Bill 75 is embarrassingly ignorant of the truth that boundaries are one of the main pillars of a civilized society that establish the basis upon which the ownership or possession of property can be determined, that draw lines of demarcation for instilling a respect for each other's property, that set limits to safeguard an invasion of privacy, that provide hallmarks to help ensure peaceful living and so on.

1810

By arbitrarily moving and adjusting boundaries throughout the municipalities without the benefit of a local set of mutual agreements, Bill 75 amounts to a denial of the private ownership of property, a disrespect for the property of others, an actual invasion of privacy and a definite disturbance of the peace.

Moreover, since all levels of government treat line fences in rural areas, lot lines in urban centres, provincial boundaries, national boundaries and continental boundaries as inviolable without the mutual consent of the affected parties, whereas the Ontario government is treating our municipal boundaries as lines of demarcation subject to its arbitrary disposition, Bill 75 is discriminatory.

If this happened in a city, at 70 Tetherwood Boulevard where Mr Gosnell lives, the riot squad would be brought out. I want to ask you why in rural areas we have to have an Ontario government come in, not by mutual consent but by an arbitrator who listens to 1,000 presentations—I think I am about the 1,039th presentation that's been made and I've listened to all the others except one hour—and he doesn't hear, and the Minister of Municipal Affairs scuttles

the boundary negotiations act, which was designed so that no municipal boundary would be moved without mutual consent. Why is it that rural people are being discriminated against where you wouldn't tolerate it two days in the cities? Mr Winninger wouldn't tolerate it. Mrs Mathysen wouldn't tolerate it. Why should we have to tolerate it?

Bill 75 is agriculturally hostile—and I'll give you four or five reasons; this is very brief—because the minister's terms of reference have already donated 64,220 acres of agricultural farm land to urban use. I'm going to ask you ladies and gentlemen—we live in a province where apparently a few months ago a minister sat with a pen, or the civil service did on his behalf, and said in one line, "Take all the farm land and rural character of the area needed and give it to urbanization"—what kind of land are we living in when one man has that power? I want you to think of that. I'm here as a minister of God. In 44 years of public life, I have never before witnessed such harassment of rural people as I have experienced in this treatment.

The city of London has put out a book recently, *London 200*. What does it mean? It means 200 years of urbanization. What does that mean? It means 200 years of rural demolition. You can't play one side of the record without the other, and all we've heard in these presentations coming from the real estate people and from the London city people is that this is a great venture into urbanization. Yes, it is. But in the farm land between here and Windsor, and you have over 90% of class 1 land that's in Ontario in this triangle from Barrie to Toronto to Windsor, there's competition between agriculture and urban development.

A few years ago, when corn was \$4 a bushel and soybeans were \$12 to \$14, every single pasture farm in the country was plowed up and tiled and developed around the villages. You can't have urbanization without rural demolition and you have to balance one against the other or you put everything out of proportion.

London has been in the business, rightly so, of urbanization. We hold that not against them, but every time you do it, you have rural demolition. If I were to take you to the city of London and down the streets, I could pick out the old farm houses. They're still there. Where's the land? It's gone. When you give 64,220 more acres of land to the city of London, it won't go tomorrow or in two years, but it's gone because it's given to the city to purposely plan how it's going to urbanize it.

I want you to think of the things that are happening in this bill. Once the 10-year and the five-year hammers, as I call them, or gavels come down so that these 500 acres of farm land are now redesignated for urban, three things at least will take place. The farm rebates are going to be cut off, which is punitive. Second, it'll move and it's justly balanced in here because instead of rural hydro it'll be a hydro-electric power commission of London, higher rates. The farmer can't afford them. Third, the city's bylaws will take over so there's no more vehicular traffic in that area and no more spreading of farm manure etc. So those farmers are forced off that land just like my ancestors were in the 1700s in Scotland by the sheep grazers who came in; they were shoved back on to 10 and 15 acres of land and they were gone.

Don't tell me this is a way of protecting farm land. There's nobody out there in the rural areas who will ever accept that. It's nonsense, and what it does to the speaker is cast a reflection on his or her own integrity. Rural people will not accept that, because it's just not true.

The purpose of annexation, as the Mathyssen proposal showed—and Mayor Gosnell spoke to that proposal, and he spoke openly so it's declared that the city plans to urbanize all the land, when he said that the “Mathyssen proposal would defeat London's purpose for annexation, greatly reducing land available for its industrial growth.” They have every intention eventually of urbanizing it all.

In effect, then, those who are declaring that this bill will protect the farm land better than any other municipality in the province are simply bringing a reproach upon their own integrity, because in reality Bill 75 is shooting Canada in the stomach and at the same time shooting Ontario's agricultural industry—second only to the automobile industry—in the foot. I treat it as anti-Canadian. Securing the land for urban use, yes, but protecting the land for agricultural use, nonsense.

Bill 75 is environmentally hostile, and I'll give you three reasons—we've heard one—and I'm going to ask the question to support their presentation. Why has the landfill site in Westminster not been closed down because of violations of the licence? I attended a meeting at Glanworth and it's all on video tape so it's documented. I heard the manager of that landfill site and also the superintendent admit to the violations of that licence.

There's supposed to be a net behind a truck when it comes and dumps papers. It's not there. The berms are supposed to be seeded. They're not all seeded. I heard that night evidence from firsthand witnesses that there's raw sewage being put in that landfill site, and there are trucks from Toronto and trucks from Windsor and from all over Ontario going in there, seven days a week on some occasions, that violate the licence. I wonder, do we have a Ministry of Environment in this province?

I'm going to have you look at something. Look at this. What a waste of paper in that. Four lines on that whole page, and we're talking about a government that represents people. They stand up in the Legislature and they say, “We're environmentally sound.”

I want to come to my last point which I'll get to. It's the river. Nobody's talked about the river and that's the key to this whole annexation. I question whether we do have an environmental policy and, if we do, whether it's enforced or not.

Bill 75 is democratically hostile because not only is the compensation from 1993 to 2003 to the county and townships of Delaware, London North, Dorchester and West Nissouri left totally in the minister's hands, but the suburban roads payments now are left totally to the minister's discretion. They're not any longer in dollars and cents.

What they talk about, \$35 million, we don't know. That's hearsay. There has been nothing come out in the form of the bill or the regulation to assure that the suburban roads amount will be one mill. In fact, if you read that amendment carefully, it says it could be one mill and then

the next line says it could be another portion of a mill, according to the minister's regulation.

Let me say something clearly: Look at that bill. Between what's in that bill and what's yet to come—because there's nothing in here about police, there's nothing in here about fire protection, there's nothing in here about health services, there's nothing in here about the landfill site. If you count up everything that's in there and add on the others which will come by ministerial regulation or ministerial order, you'll get 23 or 24 whole sets of minister's regulations to run a city. I've never heard of it before. You're not going to like what I'm saying, but I'm telling you the truth. I'll tell you what our people are going to say about that: “They've set up a new socialist republic of London.” That's what's being done.

1820

Bill 75 is flagrantly discriminatory, is full of it, because the job security of municipal employees has been guaranteed while the job security of dislocated farmers—and what about the agriculturally related employees? They haven't even been thought of. What about those?

Some properties in the city will have firefighting equipment that's on full services with hydrants, and the others will be served by a limited water supply.

Some children will be able to have farm animal pets and others won't. A few weeks ago in London, a little child had a duck, and they gave the family so many days to get rid of the duck. It was written up in the London Free Press. And if that didn't take place, you know what was happening? There'd be a court injunction, to get rid of a duck. These stewards of the land, the city urbanites that have been in urbanization for 200 years, are going to be the stewards of the farm land. Come on, ladies and gentlemen and Mr Hansen. Let's talk fairness. It's an affront to human welfare.

In the bill that was designed by Mr Eakins for Sarnia amalgamation, all of the services are listed in that bill—police, fire protection, health services—so when the bill was passed, those people have assurance in writing that, “This is what we have in law.”

What does this do when it's passed? There's a string of government regulations or ministerial regulations and ministerial orders coming, and we don't know what they're going to be. This notorious statute is a repudiation of the Baldwin act of 1849. I almost bought a shroud today to hang on that picture.

This is one of the saddest periods this province has gone through since the days of the Family Compact that my forebears had to live through when they came here from Scotland. They had a Legislative Assembly that had seven as an executive council and 16 appointed, or whatever it was, and they wouldn't listen to anything they said.

If we've gone through a thousand of these and, as Mr Gare has already said, 90% to 95% of them from rural areas are saying this is a massive annexation, why do we still have to come here and say the same things over again, and apparently no listening?

I suggest to you, Mr Hansen and committee, that once you put that law into effect, you're subject to the Canadian Charter of Rights. You're not now, but you are as soon as

you pass that bill on January 1. Your charter says that it applies to all legislative assemblies. Your charter says that anyone whose rights or freedoms are guaranteed by the charter and have been infringed upon has access to a court. The charter says every individual is equal before and under the law. See Mr Michael Smithers's comment in *Municipal World* in 1992. It also says everyone has the right not to be subjected to any cruel and unusual treatment, which I wrote in this book.

I've had unanimous endorsements from the county council, I've had endorsements from school boards, from people across the province. Mr Mills was reported as saying in Hansard that it was dreadful. Sure it's dreadful, because as the county board of education said, it surely describes the frustrations and the experiences of our county people. That's why it's dreadful, because it's dreadful to us, because it's the truth.

Bill 75, if enacted into law as it is, we believe will prove to be an intolerable millstone not only around the necks of the Middlesex county residents but also around the necks of the Ontario government and the city of London as well. It will bring us into financial ruin, and I'll show you why in a moment.

I'm going to skip some.

On the back of that chart there is a picture of the Thames River watershed. I don't know whether you gentlemen and ladies are acquainted with that book or not, but you're wondering and you're asking today, why is there such a hurry for this to be passed? I'll tell you why, because the truth is not coming out about this annexation; it's never been on the table.

This report was done over the early period of the 1970s and probably since 1975. I'm sure, Mr Eddy, you're familiar with it. Every square inch of ground and all of that watershed of the Thames River was laid out on that basin. That watershed starts away up from Mitchell and Stratford and St Marys on the north branch, and it drains on the south branch, Woodstock and Ingersoll etc, etc. It comes down through London, picks up the effluent later on, even from the little village of Glencoe, Chatham, Tilbury and so on. How many people today? Approximately 450,000 people in that watershed.

Back in the 1970s the Ontario government, in both ministries, said that London was then at the crossroads as far as sewage and effluent are concerned, and they've got two choices. You can go with a sewage pipeline to Lake Erie, 66 inches in diameter and 14,400 feet from near west of the Greenway pollution plant and out to the watershed, you get it up over the hill with a pumping station, it will gravity flow with a reverse siphon over Kettle Creek, and west of Port Stanley the plan was to build a huge sewage plant. The costs given in this book are, for that solution, something like \$108 million, back in those days, if it were done in the middle 1980s.

The second alternative was to build a tertiary plant, state-of-the-art plants which would rate the effluent almost like drinking water and are double the cost of an ordinary plant. In studies of the whole river, the drain on the oxygen content to dissolve down the effluent was reached as a

climax, and if one of those two alternatives were not followed, you would have difficulty.

Mr Sulliman today mentioned corn. I came up here last night, where two days before—I'll tell you where some of the corn is.

The Chair: Mr McColl, we've got until 6:30, so could you sum it up? Some members have left who had questions they gave me to ask you, but we won't have any time for any questions. Some who left have—some have a train; I think Mr Winninger's got a train, and I know some of the others had to leave because of transportation.

Mr McColl: I'll wind up in two minutes, okay?

The Chair: Okay. I don't want to take any more of your time. Go right ahead.

Mr McColl: I'd be glad to stay here till 9 o'clock. I wonder why you're so anxious to go when this is such a serious problem. I take that back; I don't mean any—

The Chair: I am directed by the House leaders, and it was unanimous there to stay till 6:30.

Mr McColl: May I make one other observation?

The Chair: Okay.

Mr McColl: There was another part of this. There were two other dams to be built in this watershed. One was the Glengowan, and the other one was the Thamesford dam. Why were they to be built? The dams such as Fanshawe and Wildwood basically give lakes, and they're basically recreational. But if you have a dry summer, like we had for two years, and you've got all this effluent down, and now you want to build a Toronto on the Thames and put another 400,000 or 500,000 on, you've got to have either a sewage pipeline or you have the other alternative, and still you've got to have a couple of more dams to flush that river. That's what they were intended for.

Now Mr Eddy, sorry.

The Chair: I'm sorry. I've got to say that it's 6:30. We did extend the sitting time to make sure everybody was accommodated, and we didn't cut down on the times—

Mrs Elinor Caplan (Oriole): Mr Chairman, I realize it is 6:30. Could I suggest, regarding the questions asked by the members before they left, that if you place them on the record, perhaps the deputant could communicate to the committee in writing and we could then receive his answers in that way.

The Chair: I know Gary Carr had—he didn't drop it here, but he had some.

Mrs Caplan: I see. Well, perhaps if there are questions from committee members, they could place them and the deputant could respond in writing, if anyone would like to.

The Chair: Okay, fine.

Mrs Mathysen: I would like to table an alternative proposal from the township of Delaware for the consideration of the committee. They couldn't be here today but wanted this proposal to be part of our deliberations.

The Chair: Mr McColl, I'd like to thank you for appearing before this committee. I can tell you, in your presentation there were a lot of points you brought out that hadn't been presented earlier, so you've done your

homework and you've done a lot of research in this paper, and this committee appreciates your input.

Mr McColl: Please read my book. May I have one sentence? I just ask you this, as a minister; it's on page 13. I didn't even get into our solution, but it's lined up there. Why rule by force, creating so much hardship and destruction, when a peaceful solution beneficial to all can be achieved through the counsel of many? I beg my God to touch your hearts, and I say that in sincerity. May God bless you to consider those rural people, who are God-fearing people. They're here. They mean no harm to anybody. They're willing to give a reasonable annexation to London, and I must commend them for their composure under very, very strange circumstances. But if not, Mr Hansen, your government will have to stand accountable, and maybe especially one man.

That's all I wish to say. I'll be glad to respond in writing.

The Chair: Thank you. Mr Eddy, will your party have the amendments in, say Monday or Tuesday, so that the ministry can look them over?

Mr Eddy: The ministry wants to look over the amendments we would present at the meeting?

The Chair: Yes.

Mr Eddy: I wonder what guarantee we'll have—when you say “look them over,” I don't want them looked over; I want them considered. I want an assurance—

The Chair: Let me use another term. Your know, it's late in the day—

Mr Eddy: I've got all night; my time is yours.

The Chair: I'm asking for a request, if you would, at that time. We're going to be getting the results of all the hearings from Elaine, the research officer, possibly Monday or Tuesday in our offices, but it would be nice if, ahead of time—but if you don't want to—

Mr Eddy: I'm willing to submit proposed amendments for serious consideration.

The Chair: Maybe I didn't use the right terms. I'm sorry, but I think it's a lot fairer to everyone concerned. Okay?

Mr Eddy: Mr Chair, there is one other thing. We talked about unanimous consent when Mr Sutherland was here. It was actually to hear the balance of the town of Westminster's presentation, because, as I said, they were joint with the township of Delaware either a week ago or at some time in the past. I'd just like to know that they had the opportunity to present in writing their full presentation even though we can't hear it now, I guess. I'd hoped they could have a bit more time, because they are the municipality scheduled for annihilation.

The Chair: Mr Eddy, there were some groups that were on longer than they should have been and some shorter, and it gets to the point, as the Chair—

Mr Eddy: I don't have a problem, because we've condensed it—

The Chair: —it's very difficult to wind up scheduling so that people had their full 30. Some had 25 and said, “We didn't get our full time.” I've done the best I can as Chair. Since Mr Sutherland isn't here and it wasn't unanimous, I believe, I think we'll have to leave it at that.

Mr Eddy: I agree it's been very difficult and I sympathize with you as Chair of this particular committee, but I must say, we've compressed into a very few hours what was to have been three weeks of committee hearings in the city of London. If the honourable minister had brought forth second reading in the House, as was agreed to by the House leaders back in June—

Mrs Caplan: He's absolutely right.

The Chair: Before it came to this committee. We had to deal with the subject here.

I'd like to call an adjournment to the committee for the day.

The committee adjourned at 1835.

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Mills, Gordon, parliamentary assistant to the Minister of Municipal Affairs

Clerk / Greffier: Decker, Todd

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service

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- *Mills, Gordon (Durham East/-Est ND) for Mr Wiseman
- *Winninger, David (London South/-Sud ND) for Ms Ward

*In attendance / présents

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CA20N
XC 25
-F31

Document
Publication



F-13

F-13

ISSN 1180-4386

Legislative Assembly of Ontario

Second session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 26 November 1992

Standing committee on finance and economic affairs

London-Middlesex Act, 1992

Assemblée législative de l'Ontario

Deuxième session, 35^e législature

Journal des débats (Hansard)

Jeudi 26 novembre 1992

Comité permanent des finances et des affaires économiques

Loi de 1992 sur London
et Middlesex



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 26 November 1992

The committee met at 1009 in committee room 1.

LONDON-MIDDLESEX ACT, 1992

LOI DE 1992 SUR LONDON ET MIDDLESEX

Consideration of Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex / Loi concernant les annexions faites à la cité de London et à certaines municipalités du comté de Middlesex.

The Chair (Mr Ron Hansen): We'll resume the hearing on Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex. We'll start off with a video submitted by Ben Veel. It will run about 10 minutes, and during that time the clerk will have a chance to have photocopies made of the Liberal motions.

Mrs Irene Mathyssen (Middlesex): Why are seeing this video? Why wasn't I told? I have another video. Can I show my video?

The Chair: Ask Todd.

[Video presentation]

Mr Kimble Sutherland (Oxford): Mr Chair, I realize this video has been submitted and I think it should be part of the official record, but I do believe we should be getting into our clause-by-clause vote today given the fact that there are several amendments to be done. If it is the will of the committee, I would ask that we proceed to that now.

Mrs Mathyssen: Could I ask, Mr Chair, since we've seen five minutes of what I can't really understand—I mean, I have been watching the video, but I haven't really understood; I don't know if it's the quality of the video. But since we have looked at it, might I request five minutes of the video I handed to you? It gives you a view of the land that is to be annexed. It is simply a visual image. Run it for one minute.

Mr Sutherland: I would move that we go into our clause-by-clause vote now.

Mrs Dianne Cunningham (London North): Could I ask a question, since I'm not a member of the committee and I don't know what's going on. Did we agree with people to show the video?

The Chair: It was submitted to the committee, and we said if we had a chance to view it, we would view it.

Mrs Cunningham: I don't want to be accused of not looking at something if somebody said we could look at it. I just want you to follow the rules. I'm not going to get accused again of not following the rules. So you figure it out. You're the Chairman.

The Chair: This is 10 minutes. The clerk has said to me that either we recess until the Liberals have got their amendments in or we let the video run. We can do either.

Mr Ron Eddy (Brant-Haldimand): I apologize that we don't have copies at the beginning, as we should have; I realize that. We've been working on them for a number of days and conferred with legislative counsel. They should be here, I realize, and they're coming.

Mrs Cunningham: Mr Chairman, it seems to me that if we're waiting for something, there's no harm at looking at the video. I'm enjoying it.

The Chair: Okay. Some people can close their eyes.

Mrs Cunningham: I'll look at Irene's too, if there's time.

[Video presentation]

1033

The Chair: I'd like to start off with opening remarks from the PA.

Mr Gordon Mills (Durham East): I'm pleased to bring forward to this committee the amendments to Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex. I'd like to begin by explaining the process we will use in proceeding through the bill clause by clause.

There are 48 proposed amendments to Bill 75. However, many of these motions for amendment are of a technical nature and merely adjust certain sections of the bill in consequence of previous motions. While we will address each section of the bill separately, some of the technical amendments are repeated in related sections of the bill. With your permission, Mr Chairman, and with the full agreement of all the members of this committee, we will deal with these motions only once. In this way, we will be able to spend more time on the substantive changes to the legislation.

I believe it is important to point out that the proposed changes to this bill are as a direct result of our intensive consultation with the people of the London-Middlesex area, the elected officials and the residents. We have listened to their concerns and now propose amendments that will ensure that Bill 75 reflects their concerns.

We have listened to the residents, the leaders in the agricultural community and the social field and we have listened to the business community and the local politicians. We believe the proposed amendments address many of their concerns. We listened during the minister's public hearings held in London on September 24 and 25, and we listened to those individuals who have spoken before this committee.

The proposed amendments deal with important areas such as ensuring greater protection for municipal employees directly affected by the annexation and enabling greater flexibility around land use planning issues.

The first reading bill ensured that the new city of London be structured in such a way to accommodate and

encourage more public participation in its future strategic planning. Social planning will be a key element in the future vision. To ensure this, we are proposing an amendment for the establishment of a social planning committee. In addition, we are proposing amendments that will call for a rural issues advisory committee. We are also proposing that the original compensation package to be offered to the county of Middlesex by the city of London be enhanced.

Mr Chairman, we are ready to proceed.

Mr Sutherland: Just before we go on, I want to get it clear on the record that we are to try and get through this bill today in that the agreement between the House leaders was that we were to have four days altogether, two days for hearings and then two days for clause-by-clause. That was subsequently amended by the House leaders to allow an extra day for hearings because there were numerous groups that didn't get on to the original list that wanted to present and so it was understood that we would just have one day to go through this.

I just want to say that, from my sense, what should go on today is that we should spend as much time, whatever, on each section and amendment, if people want to discuss, but it would be my sense that roughly around 5:45 it should be that everything is being put for the bill to have its final vote before the end of the day. I just want to make that clear. That is my understanding of how things are, so if we get backlogged due to lengthy debates on any one section, people should understand there's an expectation to have this finished today.

Mr Eddy: In other words, time allocation on debate. We're well aware of that situation.

The Chair: Mrs Cunningham, any problem?

Mrs Cunningham: I just want to add it was at the request of the committee that we add the additional day.

Mr Eddy: We were hoping to have an additional day.

Mrs Mathysen: There's an amendment missing from the package that I submitted. I don't know where it's gone. I had it this morning. It was in connection with the boundary adjustments. I want to draw to your attention that the first amendment I am proposing is missing from the package that was handed out.

The Chair: It's missing?

Mrs Mathysen: Yes.

The Chair: If you can wind up getting a copy of that for each one of the members—

Mrs Cunningham: We don't have any of those amendments.

The Chair: It says, "Ms Mathysen." So there's one missing.

Mrs Mathysen: The first is missing.

The Chair: And you'll get a copy for all the members on that. I believe, Mr Eddy, you've submitted 50 amendments?

Mr Eddy: Yes. Do you want me to speak to them briefly at this time?

The Chair: You've presented these here to—

Mr Eddy: Yes. We have many amendments and before presenting the amendments of our caucus, I just want to say that it is my sincere hope that the proposed amendments will receive the committee's very serious consideration. The amendments my caucus is presenting are very reasonable amendments which respond to the serious concerns of the many individuals who appeared before this committee.

The main concerns expressed, as members of the committee will know, surround the issue of the size of the annexation which is clearly too large, and that's well documented. Given the complex nature of this act, we have over 50 amendments that we wish to present and it is my hope that the government House leader sees fit to extend the clause-by-clause proceedings by one day. We realize that may not be possible, but that is our hope.

The Chair: Looking at the time, what we have done in this committee before is go through all the government motions first, then we'll go through the Liberal motions and then we'll go through Ms Mathysen's motions. We'll take it in order like that because I think we might find a repeat of some of the Liberal motions already covered by the government and it could be vice versa. Then at the very end we'll go clause by clause with the already agreed-upon amendments to the bill, which progress a lot quicker than going clause by clause and trying to go through three at one time.

If it's agreed by the committee that we proceed that way, I'll hand over to Mr Mills, the PA, and he will read off the first amendment.

Mr Mills: Thank you, Mr Chair. We move to section 2.1 of Bill 75.

I move that the bill be amended by adding the following section after section 2:

"Schedules

"2.1(1) Before the 1st day of January 1993, the Minister of Municipal Affairs shall:

"(a) prepare the schedules referred to in subsection 2(1);

"(b) cause the schedules to be published in the Ontario Gazette; and

"(c) cause copies of the schedules to be deposited with the clerk of each municipality affected by this act.

"Same

"(2) The minister may, at any time, cause the schedules referred to in subsection (1) to be recorded in the bylaw index under section 68 of the Registry Act in the land registry office for the registry division of Middlesex East (No 33).

"Application of Municipal Act

"(3) The copies of the schedules shall be deemed to be a document in the possession of the clerk of a municipality for the purposes of subsection 74(1) of the Municipal Act.

"Application of Registry Act

"(4) The schedules shall be deemed to be an instrument for the purposes of section 68 of the Registry Act.

"Non-application of Regulations Act

"(5) The schedules are not a regulation for the purposes of the Regulations Act."

The Chair: Any discussion on the amendment?

Mr Mills: Maybe I should say that schedules are not attached to this bill because legislative counsel have

changed the rules since the bill was printed, so this is normal procedure.

The Chair: Okay. Any discussion on the amendment? Seeing none, are we ready to vote on the amendment?

All those agreed to the amendment? You've got to hold your hand up, how many agree, so I can count here. One, two, three, four, five. Okay, carried.

Mr Mills: Moving along to subsection 5(4) of the bill, I move that section 5 of the bill be amended by adding the following subsection:

"Majority vote

"(4) Despite subsections 68(3), (6), (7) and (8) of the Municipal Act, the council of the city of London may exercise its powers under those subsections with a majority vote of the members of the council present at a meeting."

The Chair: Mr Mills, I'm going to have to stop you. We're going to have to take a recess. The clerk would like to put all of these in order, like the government, the Liberals and Ms Mathysen, and we deal with them as we go through rather than going all the way through. Can we take a recess for 10 minutes and come back so that it's a little bit better to follow?

The committee recessed at 1044 and resumed at 1103.

The Chair: I call this committee to order again. We're going to have to backtrack a little bit, as we've got all the amendments in order now. I'll read out which ones they are. We'll go back to section 2, which is a Liberal motion. Mr Eddy, do you have that in front of you now?

Mr Eddy: Yes, sir.

I move that section 2 of the bill be struck out and the following substituted:

"Annexations

"2(1) On the 1st day of January, 1993,

"(a) the portions of the town of Westminster described in schedule 1 and of the township of London described in schedule 2 is annexed to the city of London and forms one ward of the city;

"(b) the portion of the township of London described in schedule 3 is annexed to the township of West Nissouri;

"(c) the portion of the township of North Dorchester described in schedule 4 is annexed to the village of Belmont.

"Interpretation re Belmont annexation

"(2) The lands annexed to the village of Belmont under clause (1)(c) form part of the county of Elgin.

"Same

"(3) Despite the Education Act, the lands annexed to the village of Belmont under clause (1)(c) form part of the school division of the Elgin County Board of Education."

This amendment is submitted to reflect the 1988 proposal. It is a very strong view I have that if the section is amended to reflect the 1988 proposal, you will indeed have signatories to an agreement effecting such and accepting such amendment, because it was one that was submitted by the city of London and other parties did look at it and agree to it. It's true that the town of Westminster council did not agree to it at the time, but in view of all that's transpired since that date, we fully expect that to be the case.

The Chair: Discussion?

Mrs Mathysen: Interestingly enough, this Liberal motion is very much like the motion I'm going to be putting. Basically, I'd like to expand on Mr Eddy's remarks quite briefly by saying, first, that I'm not only the representative from the county of Middlesex but I also represent a significant population in the east part of London. These people have established a quite vibrant community. They are, by and large, the people who work in the various factories and service sectors. They are by no means wealthy but they are most certainly very significant contributors to the life of the city of London.

My concerns are twofold around this proposed annexation and the problems created by Bill 75, for not just my rural constituents but my urban constituents, because I believe that the size of this annexation is profoundly too large. I understand that there are going to be significant costs attached to this for the city of London and hence the constituents I serve in the east part of London. Among those costs are the proposed \$35 million in compensation, the cost of a new official plan, the cost for hard services, soft services, library services, fire protection, police protection, the harmonizing of London city employees, PUC employees, \$1 million proposed for suburban roads in perpetuity each year, not to mention the costs of bringing in displaced Middlesex employees. And I believe this is just the surface of costs.

I am convinced by the presentation made by Professor Andrew Sancton and Councillor Joe Swan who, incidentally, mentioned in passing that not all of city council agreed with Bill 75 and in point of fact hadn't had the opportunity to fully debate or even been apprised of the presentation made by Controller Grant Hopcroft, Deputy Mayor Jack Burghardt and Mayor Tom Gosnell. The city did not fully support this proposed annexation and Councillor Swan indicated that he feared that the levy to the people living within the city of London, tax increases in the very short term, would be in the double-digit range, and I'm very concerned for my constituents in London East because of that.

I have concerns in the county because of the loss of tax base, a full 28%, and the profound impact it will have on the Middlesex board of education. The reality is that when you take that very lucrative tax base away from the county of Middlesex you are left with a less-than-wealthy, less-than-affluent county. Parts of the west are seriously disadvantaged.

There are other, non-monetary problems. I won't go on at length. I will simply say that the proposed alternative, the 1988 proposal, would significantly reduce the impact in terms of cost to both municipalities, both the city of London and the county of Middlesex. Yes, it would require a coservicing agreement. But I submit to you that I would be delighted to accept Bill 75, since the minister stated coservicing doesn't work, if he's willing to tell his own constituents in Windsor, St Clair Beach and Tecumseh that their 30-year coservicing agreement doesn't work and to cancel it. I assume that the Minister of Municipal Affairs, since he can disband and cause the town of Westminster to cease to exist, can also tell the town of Tecumseh, St Clair and the city of Windsor that their coservicing agreement is no longer valid and must be dispensed with.

I understand that there is concern around coservicing and that the minister is not particularly delighted with the 1988 proposal. In that case, there is a second alternative proposal that has been submitted by the townships of Delaware and North Dorchester. They propose to take lands, designated on maps provided, south of Highways 401 and 402 and divide those lands. They've also included the cost of this proposal.

My concern about this is that it would still require \$35 million in compensation, and of course one of my concerns was with the \$35 million in compensation. It would not cost more; it would cost the same.

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The advantage to plan B is that it would return agricultural land to a rural municipality where there are councilors who can better understand rural needs. And I believe, since regulations can be made, they can be unmade, that the regulations the Minister of Municipal Affairs plans to protect agricultural land in the city of London may not be as effective as he had wished.

Interestingly enough, while I recognize the fact that the county of Middlesex has not always been diligent in protecting agricultural land, I would point to the record of the city of London. It seems passing strange that you would award land—

The Chair: Mrs Mathyssen, are you—

Mrs Mathyssen: I'm almost finished, Mr Chair—to the custodial care and stewardship of a city that has not been particularly responsible and take it away from the county.

The Chair: I knew you were coming to the end.

Mr Eddy: Thank you for your support.

Mr Mills: One of the key players in this annexation is the city of London, and there's absolutely no evidence of any support by it for any boundary change at this time. That is the ministry's position.

Mr Eddy: I didn't catch that. There is no evidence of support of this amendment?

Mr Mills: At this time. There's no evidence of support for any changes of this.

Mr Eddy: By the council of the city of London?

Mr Mills: City of London.

Mr Eddy: Well, that's not the information we have, but of course what's on record may be something different.

Mr Mills: Yes.

The Chair: All in favour of this amendment? One, two, three, four, five.

All those against? That's five. We have a tie.

Mr Mills: The Chair votes in the case of a tie.

Mr Bernard Grandmaître (Ottawa East): The first time the Chair voted, the second time the Chair voted. Is that how it works?

The Chair: Well, it wasn't the second time.

Mr Eddy: As long as the Chair doesn't have two votes.

The Chair: I couldn't vote the first time, all in favour. It was who was against, and I voted because it was—or do I have to come back to another vote?

Mr Grandmaître: No, no; maybe you'll need to. My question is, is the parliamentary assistant a due member of this committee?

Mr Sutherland: Yes, he's been subbed in.

Mr Grandmaître: A voting member?

The Chair: Yes. He could be sitting down there, but he's sitting up here.

Mr Mills: I am here for the convenience of—

Mr Grandmaître: For the convenience of—good work, Gord.

Mr Mills: So that you can all see me.

The Chair: The next one is a Liberal motion, subsection 2(4). I'll go to Mr Eddy, but if there's someone else, just step in.

Mr Eddy: I move that section 2 of the bill be amended by adding the following subsection:

"Schedules

"(4) On or before the 1st day of January, 1993, the Minister of Municipal Affairs shall prepare the schedules referred to in subsection (1), ensuring that they reflect the boundary lines recommended in the annexation proposal of the city of London dated November, 1988, and shall cause the schedules to be published in the Ontario Gazette."

Of course, this amendment reflects the 1988 proposal.

The Chair: Discussion?

Mr Mills: This amendment rolls back annexation to the 1988 proposal. The ministry doesn't support it. London doesn't support it. One municipality would not be responsible for growth management. It requires intermunicipal servicing and provincial infrastructure support. For that reason, it's not supported by the ministry.

The Chair: All those in favour of the motion? One, two, three, four, five.

Okay, all those opposed? One, two, three, four, five, six. Defeated.

Ms Mathyssen, subsection 2(4).

Mr Sutherland: Did we deal with Ms Mathyssen's 2.1?

The Chair: It's the same, so it's redundant.

Mr Sutherland: On 2.1?

The Chair: I'm coming up to 2.1. Okay, we've already passed 2.1, the government motion. We have a Liberal motion, section 2.1, Mr Eddy.

Mr Eddy: I move that the bill be amended by adding the following section after section 2:

"Watermain and sewage systems, hamlets of Arva and Ballymote

"2.1(1) The city of London shall provide for watermain and sanitary sewage system capacities for the hamlets of Arva and Ballymote located in the township of London as follows:

"1. 400 acres or 1,000 housing and commercial units in the hamlet of Arva.

"2. 200 acres or 500 housing and commercial units in the hamlet of Ballymote.

"Joint servicing agreements

"(2) The city of London shall enter into joint servicing agreements with the township of London to provide the

watermain and sanitary sewage system connections for the purpose of subsection (1) and the agreements shall provide that the cost to connect the services shall be borne solely by the township.

“Imposed by regulation

“(3) If the city of London and township of London are unable to reach an agreement, the Minister of Municipal Affairs may, by regulation, authorize the watermain and sanitary sewage system connections for the purpose of subsection (1).”

These are joint servicing agreements between the city and the township of London and were previously part of a negotiated agreement between the city and the township of London. Of course there are already some services there. The township of London would have taken the water from the provincial pipeline from Lake Huron except that it's remote, and this is much less cost to do it in this manner. But it was the basis of a previously negotiated agreement.

The Chair: Discussion?

Mr Mills: In so far as this amendment is concerned, the ministry wouldn't have any problem with this if it was done by negotiations, but what it does is it forces London to extend the services as it is.

Mrs Mathysen: I was a little behind. I have an identical amendment, Mr Chair. The reason for including this amendment is because the township of London had profound concerns. When the city of London needed the township of London, it was quite willing to agree to extending the services the township needed in return for land. As soon as the township conceded the land, London became very, very unclear about how it would coservice, so the township has profound concerns that it will in fact not receive its services.

The Chair: We're ready for the vote. All those in favour of the amendment? All those opposed? Defeated.

Ms Mathysen, your amendment is identical to the other one, so it's redundant.

We go to government motion section 2.1, which has already been passed. Now we go to a Liberal motion, section 3.

Mr Eddy: I move that section 3 of the bill be struck out.

This removes the clause that dissolves the town of Westminster.

The Chair: Discussion?

Mr Mills: This is fundamental to the bill. It dissolves Westminster. The boundary's related.

The Chair: All those in favour of the motion? All those opposed? Defeated.

Mr Bill Murdoch (Grey): Could this be called ethnic cleansing?

Mr Sutherland: Please, Mr Murdoch.

The Chair: Okay, Ms Mathysen, clause 5(1)(b).

Mrs Mathysen: I move that subsection 5(1) of the bill be amended by striking out clause (b).

The Chair: Discussion?

Mr Mills: This amendment removes the board of control, and we've never discussed that with the city, so it's not acceptable to the ministry.

The Chair: All those in favour of the motion? All those opposed? Defeated.

A Liberal motion, clause 5(1)(b), Mr Eddy.

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Mr Eddy: I move that subsection 5(1) of the bill be amended by striking out clause (b). Yes, the same as—

The Chair: The same. I'm sorry, but usually the order's changed. I didn't realize, because I thought it would be the Liberal first and then—so it's redundant.

Mr Eddy: That's fine. Go ahead.

The Chair: We have a Liberal motion here, subsection 5(2).

Mr Eddy: I move that subsection 5(2) of the bill be amended by striking out “30th day of November 1994” in the third line and substituting “30th day of March 1993.”

This provides for a by-election within three months of the annexation, so that an individual may be elected and not appointed by the government to represent the annexed area.

Now, it's not as large an area. It would include the town of Westminster plus the areas of the other municipalities being annexed to the city. There are two main reasons: One is to let the people elect the person they wish to represent them, but also to allow the people in the annexed portions of those other municipalities who had no part in electing the mayor of the town of Westminster, who will be appointed—if it's not changed—to represent them. They've never had the opportunity to vote. Those are the reasons. Thank you.

The Chair: Okay. Discussion?

Mrs Mathysen: This motion is the same as my motion. I concur with it because I think the aspirations of the people annexed in the north part of the now city of London may be entirely different from those put forward by the current mayor of Westminster. To be truly democratic, I believe they should not be disfranchised in this way.

The Chair: Any further discussion?

Mr Grandmaître: Can I ask a question? Is this the first time we've done this in the province of Ontario?

The Chair: I'd have to ask the ministry.

Mr Mills: We don't know, but we could find out. We don't know, if it's pertinent.

Mr Eddy: I think perhaps it is, to my knowledge. In the case of the annexation by the city of Brantford of a large portion of the township of Brantford, they took a member of the township of Brantford council, as I recall, to sit on—or was it tied in with the municipal election? Sorry, it was tied in with the municipal election.

Mr Mills: Just to show you how flexible we are, the ministry has no qualms with this amendment at all. We feel we could support it.

The Chair: Okay. All those in favour of this motion? Can I vote on that one too?

Mr Grandmaître: Now all you guys are on the right side.

The Chair: Okay, we come back to another Liberal motion, subsection 5(2.1).

Mr Eddy: I move that section 5 of the bill be amended by adding the following subsection after subsection (2):

"By-election to be held

"(2.1) A by-election under the Municipal Elections Act to elect one or more representatives of the ward described in clause 2(1)(a) shall be held on the 30th day of March, 1993, and the person elected in that by-election shall hold office until the 30th day of November 1994," which is the end of the present municipal term. It's a cleanup clause, housekeeping clause.

The Chair: Okay. Discussion?

Mr Will Ferguson (Kitchener): Just a question: What day is the 30th day of March?

Mr Mills: It's my birthday.

Mr Ferguson: What day of the week. Just provided it's not a Sunday.

Mr Eddy: The 30th is a Tuesday.

The Chair: Is that clarification, Mr Ferguson? Any other discussion?

Mrs Mathysen: Simply to say that I concur with this. It is identical to my motion, and in that I concur.

Mr Mills: I just would like to say that the ministry feels it should be amended to read "held on or before the 30th day of March." And bearing in mind that London has electronic balloting and counting and we look at it from the cost, we'd like to add, "The election shall be a manually counted election," to save costs. This is going to be an enormous expense if we do it the normal way. So those two amendments: "on or before" and "The election shall be a manually counted election." It doesn't really change anything.

Mrs Mathysen: That's fine.

The Chair: All those in favour of the amendment to the amendment and the amendment?

Mr Mills: And the amendment?

The Chair: Passed.

Okay, we come to subsection 5(3), Mr Eddy, Liberal motion.

Mr Eddy: I'm not sure about the motion on the board of control, 5(1)(b). That was put and lost?

Mr Mills: Yes.

Mr Eddy: Then this would be removed.

Mr Mills: Removed?

Mr Eddy: Yes, sir, 5(3) is to be removed as well in view of the previous motion re the board of control.

The Chair: So section 5(3) is removed also.

Okay, we come up to a government motion, subsection 5(4).

Mr Mills: I move that section 5 of the bill be amended by adding the following subsection:

"Majority vote

"(4) Despite subsections 68(3), (6), (7) and (8) of the Municipal Act, the council of the city of London may exercise its powers under those subsections with a majority vote of the members of the council present at a meeting."

This was asked for by the city of London and it's in keeping with the current practice.

The Chair: Discussion?

Mr Grandmaitre: Can we have a little deeper explanation on this one?

Mr Mills: Maybe I can shed some light on that. Council now may exercise its powers regarding the board of control with a majority of members, rather than two thirds as established in the Municipal Act. That clarifies, I hope.

The Chair: Any more discussion? All those in favour of the motion?

Mr Mills: Crumbs, you nearly got caught.

Mr Eddy: I'm following your lead.

The Chair: Okay, all those opposed? Carried.

We have a Liberal motion here, which is subsection 6(1.1).

Mr Eddy: I move that section 6 of the bill be amended by adding the following subsection after subsection (1):

"(1.1) The minister may, despite this or any other act, by regulation redivide the town of Westminster into wards and provide for the number of members of council, up to a maximum of two members, to be elected from each ward."

This provides for the election of up to two individuals to be elected to serve the wards of the annexed areas.

The Chair: Discussion?

Mr Mills: I think this was addressed in a previous motion, so it's really boundary-related and redundant, as far as the ministry is concerned.

Mr Ferguson: So the ministry is in support?

Mr Mills: No.

Mr Grandmaitre: We turned down the ward system, so—

Mr Mills: You turned down—no, I stand corrected. It has to do with the previous motion of a boundary adjustment, so that's why it doesn't really follow.

Mr Eddy: Well, we submit it, and it's to provide for up to two rather than one individual for the annexed areas.
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The Chair: Okay, let's have a vote on it. All those in favour? Opposed? Carried.

Mr Mills: Lost.

The Chair: Sorry; lost.

Mr Mills: Crumbs, you got me going.

The Chair: Now we've got a Liberal motion here, subsection 6(3).

Mr Eddy: Withdrawn in view of the previous vote.

The Chair: Okay. We come to a government motion, clause 8(3)(b).

Mr Mills: I move that clause 8(3)(b) of the bill be struck out and the following substituted:

"(b) the 31st day of December, 1995."

If I can explain, the first reading bill required development charge bylaws to expire on December 31, 1994, and it is proposed now that this date be extended one year to December 31, 1995, for lands being annexed to the city of London. This will coincide with the extension being given

the city for preparing a new official plan, which it had requested.

The Chair: Discussion? All those in favour of the amendment? Carried.

Government motion, subclause 9(2)(b)(ii).

Mr Mills: I move that subclause 9(2)(b)(ii) of the bill be amended by striking out "1994" in the fourth line and substituting "1995".

The explanation for this is that for annexing municipalities other than the city of London, the first reading bill, as I described previously, also required development charge bylaws to expire on December 31, 1994, and the extension to December 31, 1995, will also apply to the lands that they are annexing.

The Chair: Discussion? If none, all those in favour of the motion? All those opposed? Carried.

Government motion, subclause 10(2)(a)(ii).

Mr Mills: I move that subclause 10(2)(a)(ii) of the bill be struck out and the following substituted:

"(ii) the 31st day of December, 1995."

That again is similar. The extension of the date for development charge bylaws of the county of Middlesex for lands being annexed by the city of London will be December 31, 1995.

The Chair: Discussion? If none, ready to vote? All those in favour of the motion? All those opposed? Carried.

Government motion, subclause 10(2)(b)(ii).

Mr Mills: I move that subclause 10(2)(b)(ii) of the bill be amended by striking out "1994" in the fourth line and substituting "1995".

Again, the date for development charge bylaws of the county of Middlesex for lands being annexed to the village of Belmont will be extended to December 31, 1995.

The Chair: Discussion? Seeing none, all those in favour of the motion? Those opposed? Carried.

We go to a Liberal motion here, subsection 12(4).

Mr Eddy: I move that section 12 of the bill be amended by adding the following subsection:

"(4) Before an annexing municipality repeals an amendment to an official plan adopted by the council of a municipality from which land is annexed but not yet approved by the Minister of Municipal Affairs, the council of the annexing municipality shall give notice and follow the procedures set out in part III of the Planning Act."

This deals of course with the official plan amendments adopted by council but not approved by the minister. Prior to any repeal of an OP amendment, in the above situation, London city council must serve notice and hold a public meeting.

The Chair: Discussion?

Mrs Mathysen: I would concur with this motion simply because it is important that the citizens affected by this annexation have that opportunity to fully understand changes in the official plan.

The Chair: Any more discussion?

Mr Mills: I've got to read the way it's got to be worded:

"(4) The procedures set out in part III of the Planning Act for adopting an official plan amendment apply with

necessary modifications to an annexing municipality repealing an amendment to an official plan adopted by the council of a municipality from which land is annexed but which amendment has not yet been approved on the 31st day of December 1992."

I'll pass that to the clerk.

Ms Mary Neumann: You can pass it around.

Mr Mike Cooper (Kitchener-Wilmot): Could we have that one stood down until we get it printed up?

Mr Mills: Yes.

The Chair: Okay, fine.

Mr Mills: We have no problem with this.

Mr Eddy: I just wondered what the words "with modification" meant.

Ms Neumann: It's just the process in the Planning Act, as necessary to modify, because this doesn't quite fit in this situation.

The Chair: Okay, we'll stand this one down and come back to it. We'll go on to a Liberal motion, subsection 13(3).

Mr Eddy: I move that section 13 of the bill be amended by adding the following subsection:

"Exceptions

"(3) Despite subsection (1), the sandpit in the north-east corner of lot 6, concession 5, township of London, and the gravel pit in the township of Delaware shall remain in the ownership of the annexed municipality without compensation."

Declaring that certain assets would remain in the ownership of the annexed municipality lets the townships of London and Delaware retain their gravel pits, which are vital to future road maintenance. As you know, both Delaware and London townships are rural townships and the roads in the areas to be left are gravel roads to a great extent. Roads in the areas to be annexed are, for the most part, paved roads. So this allows them to keep those assets that are needed to continue to maintain local gravel roads.

The Chair: Any further discussion?

Mrs Mathysen: We concur with this—it is identical to mine—and would add that removing these gravel pits and sandpits from the rural municipalities would cause them unnecessary financial distress. So I would support, and ask the committee to support, this motion.

Mr Mills: The ministry feels it won't support the motion because it thinks the problem should be addressed through the transition process rather than an amendment.

Mr Eddy: Will it be addressed in the transition and to what extent? Does that mean there will be compensation to those municipalities for that? How do you mean, it will be dealt with?

Mr Mills: I think they'll have to sit down with the city and discuss this in due process.

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Mr Ferguson: Can I ask a quick question? The obvious question is that if this amendment isn't adopted, then this asset is turned over to the city.

Mr Eddy: Yes.

Mr Ferguson: If the asset is turned over to the city, what's there to discuss? I mean, the decision's been made, so what's there to discuss at that point? If I'm sitting as a member of council in the city and I just got this gift—and I don't now what the value of these pits would be, but probably they're substantial—what's the value in sitting down with one of these two townships or both of the townships? What kind of bargaining chip does either of the townships have?

Mrs Mathysen: None.

Mr Mills: I'd just like to comment and say that the ministry does feel that this should be a gesture of a transition process, but nevertheless, if it seems to be a matter of contention and members so desire to pass this amendment, we are not going to oppose that.

Mr Sutherland: I was going to ask if there is anyone here from Municipal Affairs who's dealing with the transition team process who could comment on whether this item has been on the agenda.

Mr Mills: Anyone?

Mr Scott Gray: I could, perhaps.

The Chair: Okay, would you come forward.

Mr Gray: My name's Scott Gray. I work with the legal branch. I can assure you, as some of you clearly know right now, that certainly the issue of these gravel pits has come up a number of times and the townships are quite concerned about the future and how these will be dealt with. The bill as it's set up now doesn't say these gravel pits will go to the city; it doesn't say they will stay with the township. What it says is that those assets that pertain to an area annexed to the city will become city assets.

So when the committee of referee sets down, it's going to have to say, "What does this land pertain to?" In other adjustment processes they may well decide that that gravel pit operation pertains to not just the city but it pertains to the county and they may decide it pertains more to the county and their decision will be to leave it with the county. That is a possible outcome of that process. The act doesn't predetermine where that asset will go, that's all.

The Chair: Mr Eddy, you had your hand up first.

Mr Eddy: There's a misunderstanding. The county doesn't enter into it whatsoever. They are local assets purchased by the local municipalities for the sole purpose of maintaining the gravel roads, mainly. It wouldn't be as much the reconstruction or the paving of roads, because that would take so much out of them, but it's the continued maintenance.

The problem is, in the case of the township of West Nissouri, where 40% of the assessment is going but hardly any of the population and hardly any of the roads maintained by the municipality, it's absolutely necessary, I think, that they maintain title to those pits. Sorry, West Nissouri isn't mentioned; it's London township and Delaware. But they've been purchased for the entire townships. I agree that they were purchased with funds from the entire assessment at the time they were purchased, some

time ago, before some development, but it's crucial and it's the local municipality that needs them.

Mrs Mathysen: I would concur with Mr Eddy. I have grave concerns around this, because when this bill becomes law, the Ministry of Municipal Affairs in effect walks away and further negotiations are left between the rural municipalities and the city of London. Just as with the servicing agreement regarding sewage treatment for London township, I haven't much faith in the integrity of the city of London to live up to agreements when it's already got what it wants.

Mr Sutherland: We have this amendment that refers to a specific sandpit in London township and a specific gravel pit in Delaware. Are there any other sandpits or gravel pits in any of the affected areas?

Mr Mills: None.

I'd just like to quickly make a point. Why we felt not to support the amendment originally is that we feel it might sort of undermine the process of transition. Having said that, I feel, on behalf of the ministry, that they would get the sandpit or gravel pit anyway under the transition process, but if you don't feel you want to go through that route, well, we're amenable to support the amendment.

Mr Eddy: I think it's preferable to deal with it now, realizing that if we do say and if it is passed that the townships retain them, certainly I think the transition team will still look at that as having been kept even though it's in the annexed area. So there will be some consideration given, but I'd like to see it dealt with now and then it's final.

The Chair: Okay. I call the question: How many in favour of the motion? Seven. Passed.

We go to government motion subsection 15(2).

Mr Mills: I move that subsection 15(2) of the bill be struck out and the following substituted:

"Payment for special collector's rolls

"(2) On or before the 1st day of April, 1993, an annexing municipality provided with a special collector's roll under subsection (1) or (3) shall pay to the municipality that provided the roll an amount equal to the arrears of taxes, charges and rates contained on the special collector's roll, together with any accumulated interest or penalty, but excluding any amount struck off the roll by the treasurer of the annexing municipality under section 441 of the Municipal Act."

To explain that, this provision will ensure that Delaware and North Dorchester assume responsibility as annexing municipalities to annex municipalities for any taxes owing, including interest and penalties. Exceptions would be taxes considered uncollectible by the annexing municipality.

The Chair: Discussion? Seeing none, all those in favour of the motion? Do you have your hand up, Mr Ferguson? All those opposed? Carried.

We move on to a Liberal motion here, subsection 19(1).

Mr Eddy: I move that subsection 19(1) of the bill be struck out and the following substituted:

"Employees

"(1) Every person who is employed by the town of Westminster on the 1st day of November, 1992, and continues to be so employed until the 31st day of December, 1992, becomes an employee of the city of London on the 1st of January 1993."

Of course, that's the timing of the annexation, changing the section so that there is a transfer of employees from Westminster to the city of London instead of just the provision to offer them jobs. I think this is a usual clause that's been used before in annexations.

The Chair: Discussion?

Mr Mills: I just think, in deference to Mr Eddy's amendment, we will do that better in an amendment that's to come forward in a minute. We're going to improve on your amendment, so perhaps we should just hold off.

Mr Grandmaître: Then can we deal with the government's amendment? Then we can go back to—

The Chair: Yes, I think that would be easier, because Ms Mathysen's is the same.

Mrs Mathysen: I move that subsections 19(1) and (2) of the bill be struck out and the following substituted:

"Employees

"19(1) The city of London or a local board thereof, as agreed upon by the city and its local boards, shall offer to employ every person who was employed by the town of Westminster or a local board thereof on the 31st day of December, 1992.

"Same

"(2) The city or a local board thereof, as agreed upon by the city and its local boards, shall offer to employ every person who,

"(a) was employed by the county of Middlesex, the township of Delaware, the township of London, the township of North Dorchester or the township of West Nissouri or a local board thereof on the 31st day of December, 1992; and

"(b) on or before the 30th day of June, 1994, had his or her position declared surplus by his or her employer, as a result of the annexations under this act."

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Very briefly, while I would have preferred it to say "shall employ," I think this does help the employees of the affected townships. Because once again, as witnessed by the kind of job offers that have been made by the city of London—namely, jobs that have no job description, jobs that didn't previously exist—I have profound concerns about the security of Westminster and other county employees who are displaced and affected by Bill 75.

I would also like to point out that clause (2)(b) extends that period to June 1994 in terms of declaration of an employee as surplus in order to protect employees who are not otherwise protected, by virtue of the fact that some county employees may continue to have jobs in the transition, only to find themselves without jobs at a later date.

Mr Grandmaître: I don't have a copy of Ms Mathysen's—

The Chair: That's a government motion; she's moving it.

Mr Mills: She's moving it on behalf of the government.

Mr Murdoch: Does this mean they could hire people right now? Is that what you're saying? I'm going by the Liberals' one now; they'd have to already be working—

Mr Mills: Yes, that's what it means.

Mr Murdoch: So we're going to have a whole lot more people hired in the last month and then London's going to have to take them over. Is that what you're saying?

Mr Mills: It hasn't happened so far and it's not anticipated that it will.

Mr Murdoch: But there's nothing to say it won't.

Mr Mills: It might snow in a minute.

Mr Murdoch: So you load the union up. You can load all kinds of union employees who are unemployed right now, hire them all now and then London's going to have to take them over. Okay. That's what you want, is it?

Mr Sutherland: No, it's to protect the employees.

Mr Mills: It's done in good faith.

Mr Murdoch: But the Liberal motion says the cutoff date was November.

Mr Grandmaître: We haven't dealt with the Liberal motion yet, but what this motion says is "shall offer to employ every person." That's in section 2, "shall offer." I think our amendment is much better. I think we should deal with ours.

Mr Murdoch: I agree with you, as much as I hate to.

Mr Eddy: The main difference is that the government's amendment says "shall offer to employ every person." Our amendment says "continues to be so employed," and I think that's the difference. Does offering employment also mean the right for that person to be employed if they accept the offer? That's maybe the question. Maybe it does, but it's not as clear. We're saying they shall be employed and they shall become employees of the city. The government amendment says they shall be offered employment. It's a greater protection.

The Chair: Would you have a little clarification?

Mr Murdoch: Just explain it, Gord.

Mr Mills: To me, it's a matter of use of words: "shall" or "continue to be," whatever you want to pick. I think the intent is there and it's in very good faith that these folks will be offered employment, continue to be employed. I don't see any great problem with this.

Mr Ferguson: I don't want to debate semantics but I think the intent is that all the existing employees will be offered employment and will be employed by the city of London. Is that correct, Mr Mills?

Mr Mills: I beg your pardon, but I'd just like to say that this amendment is in agreement with the city and with all the unions involved too. So everyone's on side with this. The ones who don't seem to be on side—the discussion is here. These are the key players and they're on side.

Mr Ferguson: There is a little bit of difference between offering somebody employment and saying they shall be employed. They could very well offer somebody employment, without having a job in existence for that individual, and fulfil their obligations.

Mr Mills: You can't force people to take it. You can force people to offer employment, but to force them to take it is another thing. This is really the wordage, what we're getting into here.

Mrs Mathysen: My concern here again is the assumption of good faith. I do not believe that London has been particularly faithful, and it is not good faith that some of these job offers have been made. For example, a building inspector has been offered a job as an engineer. How long do you think he's going to last?

Mr Sutherland: I'd just like to reiterate that the parties directly affected—the union, the Westminster employees' group that was here, the city—are aware of this amendment being proposed and are in support of it and what it stands for. Those people directly involved were consulted and have said that this is what they're asking.

Mr Grandmaître: I realize everybody is on side, but the wording says "shall offer." I realize the parliamentary assistant's argument that you can't force people, so if everybody's on side, why don't you use the words "continues to be so employed"?

The Chair: Instead of "shall offer," put "continues to employ every person."

Mr Murdoch: We started out with an amendment to subsection 19(1) and then we somehow got into a government one and we never did vote on it.

Mr Sutherland: We agreed that we'd deal with the government motion first, before we deal with the Liberal motion.

The Chair: What we've done is that some of the Liberal motion is being incorporated into the government motion.

Mr Murdoch: Then that's fair too, but the Liberal motion also has a date on it of the 31st day of November, which means no one can be employed right now and then get a job out of London. Your motion is not really saying that. There's a fundamental difference.

Mr Grandmaître: Because this is November 1992.

Mr Murdoch: I know. I hear you. Your motion is totally different from theirs.

Mr Mills: If I can respond to your concerns, if we say "continues to be," then the people have got no option. What if they say, "We don't want to be employed."

Mr Grandmaître: Let them say no.

Mr Mills: I want to bring up another point about the government motion and the Liberal motion. The government says in subsection (2), "The city or a local board thereof," and you say every person employed by the town of Westminster. We're including local boards.

I emphasize again that this has been hammered out with the unions and the city. We've got to understand that this is done in good faith. We can all suppose this, that and the other, but the underlying fact is that the key players have agreed to this.

Mr Murdoch: Gord, the bill is not in good faith, so don't expect me to believe that.

Mr Mills: That's a matter of opinion. I believe it is.

Mr Murdoch: I know, but don't expect me to believe that. You can believe what you want.

Mr Sutherland: Mr Chair, on a point of order: We're almost reaching 12 o'clock. We're going to have to adjourn very shortly. I just want to know if we're going to wrap up debate and have an actual vote on this motion before we go for lunch.

The Chair: Mr Eddy wanted to wind up. There's Mrs Mathysen, and then back to you.

Mr Eddy: It's been mentioned that everybody knows about that. Without some evidence of that fact, I can't agree with it, because I understand that some of the groups haven't been.

In addition, we've got to recognize that we have non-union employees of the town of Westminster, but also it's the employees of the township of West Nissouri. West Nissouri is losing 40% of its assessment. That means a tremendous reduction in their staff. It's my understanding that those employees have not been offered anything by the city. I know the bill hasn't been passed etc, but there are other municipalities involved. Their employees should be informed about it and know about it. Recognizing what the parliamentary assistant said, that you can't force somebody to be employed, but you can employ them and they can resign, if they were continued employment. I just think there needs to be a bit more protection than that states and would ask your consideration of that, for all employees. Except for a by-election, I might be on the table myself.

Mrs Mathysen: To add to what Mr Eddy has said, in addition to Westminster employees not being unionized employees, I have just conferred with them and they are not in agreement and fully comfortable with this. They wish to be transferred, because you get into this whole area of seniority and problems surrounding that. This isn't as simplistic as it may seem.

Mr Sutherland: Can we put it to a vote, Mr Chair?

Mr Mills: Can I just make a quick closing remark? The minister has said in Bill 75 "may by regulation define 'employee' or 'retired employee' and provide for the security of employment, the protection of benefits, including seniority and pensions, and early retirement options for employees and retired employees affected by this part."

I don't know how much more—and the minister has also made these promises to the unions that this will be right.

The Chair: Subsections 19(1) and (2): All those in favour of this government amendment? Those opposed? Carried.

Mr Sutherland: Mr Chair, I would move that we adjourn for lunch now—I think we've made significant progress on quite a few—and that we reconvene this afternoon.

The Chair: This committee will recess until orders of the day.

The committee recessed at 1204.

AFTERNOON SITTING

The committee resumed at 1603.

The Chair: We'll resume Bill 75, An Act respecting Annexations to the City of London and to certain municipalities in the County of Middlesex, and we'll get on to the amendments, if we can go back and revisit subsection 5(2.1), a government motion. Mr Mills. That one was rewritten.

Mr Mills: Yes. This one was on hold, I believe, right?

The Chair: Yes.

Mr Mills: I move that section 5 of the bill be amended by adding the following subsection after subsection (2):

"By-election to be held

"(2.1) A manually conducted by-election under the Municipal Elections Act to elect one representative of the ward described in clause 2(1)(a) shall be held on or before the 30th day of March, 1993, and the person elected in that by-election shall hold office from the 1st day of April, 1993, until the 30th day of November, 1994."

The Chair: Thank you, Mr Mills. Mr Eddy, are you satisfied with the changes? It's the Liberal motion originally and we've made some changes to it there.

Mr Eddy: I believe counsel has seen it, yes.

The Chair: So you agree to it. Can you withdraw the original motion that you had put forward there?

Mr Eddy: If that's necessary, yes.

Mr Sutherland: This is 5(2.1), correct?

The Chair: Yes.

Mr Sutherland: Okay, I'm sorry. My question's answered. Thank you.

The Chair: All in favour of subsection 5(2.1)? Opposed? Carried.

To go back to another one we have to revisit—it had to be rewritten—that was subsection 12(4) and that was a Liberal motion presented by Mr Eddy. Would you agree with subsection 12(4) the way it stands now, Mr Eddy?

Mr Eddy: Yes.

Mr Grandmaitre: That means that any annexation that comes out of it will be resolved by the OMB.

Mr Mills: That would be the process, yes.

The Chair: Mr Eddy, could you withdraw the original subsection 12(4)?

Mr Eddy: Agreed.

The Chair: All in favour of the new subsection 12(4)? Could you read that out, Mr Mills.

Mr Mills: I move that section 12 of the bill be amended by adding the following subsection:

"Repeal of annexed municipality's amendment

"(4) The procedures set out in part III of the Planning Act for adopting an official plan amendment apply with necessary modifications to an annexing municipality repealing an amendment to an official plan adopted by the council of a municipality from which land is annexed but which amendment has not yet been approved on the 31st day of December, 1992."

The Chair: Any discussion? Ready for the vote? All those in favour? All those opposed? Carried.

We go on to Liberal motion subsection 19(2).

Mr Eddy: Clause 19(2)(a) withdrawn.

Mr Ferguson: Gee, I was going to support that one.

The Chair: Mr Eddy, if you can withdraw subsection 19(1), because it's already been passed in subsections 19(1) and 19(2) of a government motion.

Mr Eddy: Which one?

The Chair: Subsection 19(1). Remember we had the two subsections, 19(1) and 19(2)?

Mr Eddy: Yes.

The Chair: So you withdraw. Thanks, Mr Eddy. We go on to another Liberal motion, clause 19(2)(a).

Mr Eddy: I withdrew that just a few minutes ago.

The Chair: That one's withdrawn too?

Mr Eddy: Yes. That's gone.

The Chair: Subsection 19(3), Liberal motion.

Mr Eddy: I move that subsection 19(3) of the bill be amended by adding at the end "and whether or not an employee who became a city employee under subsection (1) or (2) was fairly placed."

I don't know how that fits in now with what we've done.

The Chair: Yes, with what we've done now. So you withdraw that motion?

Mr Eddy: Yes.

The Chair: Mrs Mathysen, do you withdraw your motion?

Mrs Mathysen: Can I have some clarification so I can fully understand how it fits in terms of the motions passed? I think it's a concern that employees be fairly placed and that their needs be met.

The Chair: If I'm not mistaken, it was offering the job. We'll let the ministry answer on that.

Mr Mills: First of all, you can't define "fairly placed" anyway. We can't define it.

The Chair: We go on to subsection 19. Did you withdraw your motion there, Mrs Mathysen? Okay, fine.

Subsection 19(5.1), a government motion.

1610

Mr Mills: I move that section 19 of the bill be amended by adding the following subsection after subsection (5):

"Volunteer firefighters

"(5.1) Every person who was a volunteer firefighter, as defined in the Fire Departments Act, of the town of Westminster on the 31st day of December, 1992, becomes a volunteer firefighter of the city of London on the 1st day of January, 1993."

This new provision allows Westminster's volunteer firefighters, as at December 31, 1992, to continue to provide volunteer firefighting services to the city of London. The Westminster volunteer firefighters sought

this provision, and the city of London fire department has agreed to it.

The Chair: Any discussion?

Mrs Mathysen: I have just one question. I wonder how it will work when you have firefighters for the city of London who are paid and firefighters for the city of London who are not paid. Will that create problems?

Mr Mills: They've developed an integration program, and the union has agreed to it, the firefighters agreed to it. Everybody's happy.

Mr Grandmaître: Does that mean they will be paid?

Mr Mills: No. Only the original chief will be paid. He's the captain. The others are not, and it's all agreed to.

The Chair: There are a lot of cities in Ontario that have a full-time fire department plus volunteers.

We'll have the vote on it here. All in favour? Those opposed? None opposed? Carried.

We go on to Liberal motion, subsection 19(6).

Mr Eddy: I move that subsection 19(6) of the bill be struck out and the following substituted:

"Rights of employees

"(6) A person who becomes an employee of the city or a local board thereof under subsection (1), (2) or (4) shall,

"(a) receive a salary or wage at a rate no less than the person was receiving on the day this act receives royal assent;

"(b) be credited for all purposes with the same seniority that he or she had on the 31st day of December, 1992; and

"(c) be employed for the same number of hours a week as in the position he or she held on the 31st day of December, 1992."

The Chair: Discussion?

Mr Mills: I'd like to speak to the amendment before offering the government motion. As far as (a) is concerned, the government motion is better than that one; as far as (b) is concerned, it's the same; as far as (c) is concerned, the ministry sees this as being problematic, 36 hours and 40 hours and things like that. Those are the problems.

The Chair: So we'll have a vote on subsection 19(6). All those in favour?

Mr Sutherland: Sorry. We're voting on Mr Eddy's 19(6)?

The Chair: Yes, Mr Eddy's. All those in favour? All those opposed? Defeated.

Ms Mathysen's motion, which read the same, is defeated also.

Mr Mills, subsection 19(6), an amendment to the bill.

Mr Mills: I move that subsection 19(6) of the bill be struck out and the following substituted:

"Salary or wage

"(6) A person who becomes an employee of the city or a local board thereof under subsection (1), (2) or (4) shall,

"(a) receive a salary or wage at a rate no less than the person was receiving on the day before the person began his or her employment with the city or a local board thereof under subsection (1), (2) or (4); and

"(b) be credited with the same seniority that he or she had on the day before the person began his or her employment with the city or a local board thereof under subsection (1), (2) or (4).

"Salary, etc, reduced for cause

"(6.1) Nothing in subsection (6) prevents the city or a local board thereof from reducing or eliminating the salary or wage rate or the seniority of an employee for cause."

That explains that salary and seniority rights for people who become employees of the city of London as a result of the annexation remain what they were prior to annexation. This provision applies regardless of when the people were declared surplus. The amendment does, however, allow an employer the normal right to make adjustments to salaries or seniorities for just cause. Finally, I let you know that this amendment was agreed to by CUPE and Westminster.

The Chair: Discussion?

Mr Ferguson: I would assume that a friendly amendment would be on the last line, "for just cause," rather than just "for cause."

Mrs Mathysen: Again, I would like to put on the record that the representative for the employees of Westminster would like to say they have not agreed. They have some concerns that relate to who determines just cause and to the date and dates, because some employees have anniversary dates that go past April 1 and they are concerned that they will lose salary as a result of Bill 75 and the way it is currently written.

Mr Ferguson: I appreciate and understand the concern expressed, but I think the intent is fairly clear. You know, anybody can challenge any piece of legislation and try to put their own—heaven forbid I say it—spin on it or interpretation, but it's the intent that is being looked at.

I think the intent's fairly clear, that if somebody is transferred from Westminster to the city of London, he should be transferred at the same rate of pay and maintain his seniority. If they're going to be terminated, for whatever reason, there has to be just cause. I would view that just cause would not include the city of London making an arbitrary decision.

Mr Mills: No, not at all.

The Chair: Did we have an amendment there for "just cause?"

Mr Mills: We have no problem with that, to insert after the word "for" in the last paragraph of the motion the word "just."

The Chair: Everybody agrees? All those in favour of the motion with the amendment? Those opposed? Carried.

Liberal motion, subsection 19(7), Mr Eddy.

Mr Eddy: I move that subsection 19(7) of the bill be amended (a) by striking out "may" in the first line and substituting "shall" and (b) by striking out "employee or" in the second line.

This would make it mandatory for the minister to define "retired employee."

The Chair: Discussion?

Mr Mills: The word "may" is the normal wording in legislation such as this. It gives us broad powers to do a

whole lot of things. If you insert the word "shall," that's somewhat restrictive.

Clause (b), "by striking out 'employee or' in the second line," this reduces our ability to protect employees, which reduces the ability to protect. If you say, "by striking out 'employee or' in the second line," you've reduced that level of protection. We can't make the regulations that apply to employees if that's out. I mean, you're cutting off employees.

The Chair: All those in favour of the motion?

1620

Mr Mills: You want to cut off the employees? Okay. We want to keep them in.

The Chair: Opposed? Defeated. Ms Mathysen's is the same; it's defeated.

We move on to a Liberal motion, subsections 19(9), (10) and (11).

Mr Eddy: I move that section 19 of the bill be amended by adding the following subsections:

"Arbitrator appointed

"(9) The Minister of Municipal Affairs may, upon the application of the city or local board thereof or an employee, appoint an arbitrator to determine whether or not the city is meeting its obligations under subsection (6) in any particular case.

"Decision final

"(10) The decision of the arbitrator is final.

"Definition

"(11) In this section, 'employee' means a full-time, part-time, permanent part-time or contract employee or a volunteer firefighter."

This is for employee protection.

The Chair: Discussion?

Mr Mills: Subsections (9) and (10) have already been done in our government motion, and under "Definition" we find that there's less flexibility to define in regulations for special situations. You know, we don't really know what the situations are going to be, so if we define it here, there's less flexibility to do that in the regulations subsequent to this, and it's not recommended by the ministry to do that.

The Chair: Any further discussion?

Mr Sutherland: So what you're saying is that under this definition, not all categories of employee may be covered.

Ms Neumann: We're just not sure. We think they all are, but we're not sure. We think that under your definition, they probably all are, but we're not sure.

Mr Mills: So we need that flexibility.

Mr Ferguson: I agree. What you don't have in here—I don't know specifically how London operates, but you don't have, for example, temporary full-time employees. I mean, municipalities have temporary full-time employment for 10 months of the year. Rather than getting caught up in a situation, it makes sense to delete that.

Mr Mills: This gives us flexibility, in special situations, in the regulations.

The Chair: All those in favour of the amendment? Those opposed? Defeated. Also, Ms Mathysen's is defeated also; it's the same.

We're still on subsections 19(9), (10) and (11).

Mr Mills: I move that section 19 of the bill be amended by adding the following subsections:

"Conflict with OLRB order

"(9) In the event of a conflict between subsection (6) or a regulation made under subsection (7) and an order of the Ontario Labour Relations Board under the Labour Relations Act, the subsection or regulation prevails.

"Arbitrator appointed

"(10) The Minister of Municipal Affairs may, upon the application of the city or a local board thereof, an employee or a bargaining agent, appoint an arbitrator to hear and determine whether or not subsection (6) or a regulation made under subsection (7) is being properly applied in any particular case.

"Decision final

"(11) The decision of the arbitrator is final."

I'd just like to make a comment. This motion adds subsections (9), (10) and (11) to section 19 of the bill and reflects discussions between the minister and employee organizations and has the concurrence of the Ministry of Labour. To maximize flexibility regarding security of benefits, the amendment ensures that regulations made under Bill 75 take precedence over an order of the Ontario Labour Relations Board under the Labour Relations Act. The amendment also provides for an arbitration process in the event of a concern with the application of the minister's regulation.

The Chair: Further discussion? All those in favour of the motion? All those opposed? Carried.

We move on to the Liberal motion to section 20.

Mr Eddy: Withdrawn, thank you.

The Chair: Withdrawn? Section 21, Liberal motion.

Mr Eddy: I move that section 21 of the bill be struck out and the following substituted:

"London PUC continued

"21(1) The public utilities commission for the city of London is continued and shall consist of five persons of whom the head of the council of the city shall be one by virtue of his or her office and, subject to the results of the referendum under subsection 21(5), the others shall be elected by general vote at the elections held under the Municipal Elections Act.

"Same

"(2) The public utilities commission for the city shall be deemed to be a commission established under part III of the Public Utilities Act and a municipal commission within the meaning of the Power Corporation Act."

This allows for the election of PUCs.

The Chair: Discussion?

Mr Mills: The ministry doesn't support this amendment because it's going to be an appointed board and that is in common with many other municipalities.

The Chair: Any further discussion?

Mr Grandmaitre: Can you give me examples?

Mr Mills: Yes. Do you want examples?

Interjections.

Mr Mills: Okay? Are you happy?

Mr Grandmaître: Yes.

The Chair: Do they—

Mr Mills: No. They don't want to. We can, but—
Interjection.

Mr Mills: You want to know?

Interjection: Yes, please.

Mr Mills: Okay. I call forward the appropriate staff person, if someone has got that on the tip of his tongue.

Mr Gray: I don't know if I have it on the tip of my tongue. I know there are a small number of private bills individual PUCs have got to make their commissions appointed. I don't know how many are there. I have seen them and they're generally small municipalities. I know in some of the regions, when the regions were created, their hydro-electric commissions did provide them with the option either to appoint or elect. They had to choose within a specified time which way they wanted to go and some of them no doubt did choose to go the appointed route. I can't tell you which ones they are at this moment.

Mr Eddy: Is the gentleman saying that in all cases it's been local option whether it's appointed or not?

The Chair: It sounds like it. The Chair hears it that way.

Mr Eddy: Is that what I hear?

Mr Sutherland: I know from the standing committee on private bills and regulations that we've had some before that have decided to switch.

Mr Eddy: Local option is the point I'm making.

The Chair: I think Burlington was one.

Mr Sutherland: But I think they have to come here and get approval to switch it.

Mr Eddy: But the point is it's the local elected council responsible to the people that has decided in some way that it wants to change the system.

The Chair: Correct.

Mr Grandmaître: So you need special legislation?

The Chair: Yes.

Mr Sutherland: You need a private bill.

Mr Ferguson: I think it's part of the Municipal Act. The Municipal Act gives the council the local option.

Interjections.

Mr Eddy: The Power Corporation Act indeed covers the formation, I believe, of hydro-electric commissions and public utilities commissions. It's decided, as I understand, by the local council, and I feel strongly that is a local decision. In the case of some bills, appointed hydro-electric commissions are used where the commission does not serve the entire municipality, a portion of it, such as a former police village or something like that. I'm familiar with that system, but I think it's been in all cases local option. That's the point I'm trying to make.

The Chair: That's what I hear.

Mr Gray: In this situation, of course, the city is in that situation. They won't be serving the whole of the new city. I just want to point that out. They'll be serving basically the city and the areas in Westminster that have their PUC at the moment.

Mr Mills: I'd just say that this PUC is being dissolved.

Mr Grandmaître: We all know that.

Mr Mills: Yes. This is the difference. You know that?

The Chair: Okay, call the question. All those in favour of the motion will raise their hands. Those opposed? Defeated.

Liberal motion subsection 21(3), Mr Eddy.

Mr Eddy: Withdrawn in view of the previous vote.

1630

The Chair: Government motion, subsection 21(3).

Mr Mills: I move that subclauses 21(3)(a)(i) and (ii) of the bill be struck out and the following substituted:

"(i) one of whom shall be the mayor of the city;

"(ii) four of whom shall be the persons who, on the 31st day of December, 1992, were the elected members of the public utilities commission of the city dissolved under section 20; and

"(iii) one of whom shall be the person who, on the 31st day of December, 1992, was the chair of the public utilities commission of the town of Westminster dissolved under section 20."

By way of comment, the first reading bill said that the five current members of the public utilities commission, including the mayor of the city of London, would sit on the commission until November 1994, but it didn't address the possibility that if there is a new mayor, that person should fill the vacant position on the PUC. This new provision makes for that adjustment.

The Chair: Any questions?

Mr Sutherland: Sorry. You said in your explanation "should fill a vacant position on the PUC." You meant the hydro-electric commission?

Mr Mills: Yes.

Mr Sutherland: Not the PUC. I just want to make sure we're clear.

The Chair: All those in favour of the amendment? Those opposed? Carried.

Liberal motion, subsection 21(4).

Mr Eddy: I move that subsection 21(4) of the bill be amended by striking out "is appointed by the succeeding council" in the sixth and seventh lines and substituting "takes office."

It provides for the election of a PUC.

The Chair: Discussion?

Mr Mills: It's already been addressed. It's going to be an appointed hydro commission.

The Chair: Do you want to withdraw that, Mr Eddy?

Mr Eddy: No. We're very strong on this one. It's the difference between appointed and elected.

The Chair: All those in favour of the motion? All those opposed? Defeated.

Liberal motion, section 21.

Mr Mills: It's the same. It's been decided.

Mr Eddy: I move that section 21 of the bill be amended by adding the following subsection:

"Referendum

"(5) A referendum shall be held during the November 1994 municipal election to determine whether the members of the hydro-electric commission of the city will for future terms be appointed by the succeeding council or directly elected."

Again it comes back to a local option. It's giving the people to determine whether they in fact want to continue with an appointed commission, members appointed by council, or indeed have the opportunity to elect the members to their hydro commission. It comes down to local choice by the three people of the city.

The Chair: Discussion?

Mr Mills: The ministry will not support that amendment. We need and see it all to be under the control of the council and that's why it's appointed.

The Chair: All those in favour of the motion? All those opposed? We still have to vote on that one.

Mr Eddy: I wonder if we'll be proceeding then to eliminate all the elected hydro commissions and the PUCs in Ontario.

The Chair: It's been drawn to my attention Mr Tilson doesn't have a vote.

Mr Sutherland: He doesn't have a vote.

Mr Mills: He's not subbing.

Mr Eddy: Can we extend the privilege to him, as a member of the—

Mr Mills: No. He's got to be subbed in. We had a member here, but he didn't vote either.

The Chair: He wasn't sitting here.

Mr Mills: No, but he could have been.

The Chair: Okay. Liberal motion, section 22, withdrawn.

Liberal motion, section 23.

Mr Eddy: I move that section 23 of the bill be struck out and the following substituted:

"Bylaws and resolutions

"23(1) A bylaw or resolution of the public utilities commission of the town of Westminster dissolved under section 20 pertaining to an area annexed to the city of London shall be deemed to be a bylaw or resolution of the public utilities commission of the city of London and shall remain in force in that area until the earlier of the date it is repealed and the 31st day of December, 1995."

I believe that should read, instead of PUC, "hydro-electric commission."

"Same

"(2) A bylaw or resolution of the public utilities commission of the city of London continued under section 21 shall remain in force in the area of the city, as it existed on the

31st day of December, 1992, until the earlier of the date it is repealed and the 31st day of December, 1995.

"Exception

"(3) Nothing in this section repeals or authorizes the repeal of bylaws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the commission dissolved under section 20 or the commission continued under section 21."

Of course, that refers to a hydro-electric commission, not a PUC of London.

The Chair: Discussion?

Mr Mills: The problem the ministry sees is that we see two rules for the new hydro commission. It may become a problem, as referred to the town of Westminster and London, so we're not prepared to support that. It's a problem, two sets of rules for a new hydro commission.

Mr Eddy: Well, it's covered by the point "until repealed." The new hydro commission will have the authority, I understand, to repeal any bylaw, resolution etc that has been passed by the former PUC of the town of Westminster. I think that's what it's all about, so it continues until it's repealed. I'm not sure whether, given the new hydro commission, you have absolute authority but it's normal to continue things until they are repealed. Is it covered perhaps in some other place?

Mr Mills: I guess to identify it. It's a problem, but we don't really understand or know what sort of problem it is at this moment. But we see it as a problem. It could be.

Mr Eddy: I could compare it then—when a municipality's restructured and several municipalities are put together, usually the bylaws and resolutions in force in those particular areas remain in force until there's something changed overall. That's the purpose of it. Whether the wording is absolutely correct or not—oh, it did come from legal counsel. Legal counsel could comment on that one, or do you want to leave it tabled?

Mr Mills: Until when?

The Chair: Until later.

Mr Eddy: We agree with the parliamentary assistant. It's based on the point of continuing a PUC in the city of London. However, I would ask that it be reviewed, what happens in the case of the hydro commission where there are rules and regulations etc in the town, how they'll be continued. I'll just leave it with you.

The Chair: So you're going to withdraw that motion.

Mr Eddy: Yes, sir.

1640

The Chair: Okay, thank you, Mr Eddy.

Government motion, section 23.1, Mr Mills.

Mr Mills: I move that the bill be amended by adding the following section after section 23:

"Powers under special acts

"23.1 The provisions in any special act relating to the public utilities commissions of the town of Westminster and the city of London dissolved under section 20, in so far as the provisions of the special act are not in conflict

with the provisions of this act, continue in force, and the powers conferred by the special act may be exercised,

“(a) by the hydro-electric power commission of the city established under subsection 21(1) if they relate to the distribution and supply of electrical power;

“(b) by the city or local board thereof if they relate to the production, treatment, distribution and supply of water or if they relate to parks and recreation.”

This motion deals with the new London hydro-electric commission. It will add section 23.1 to the bill that is currently drafted.

As currently drafted, Bill 75 restricts the right of the new London hydro-electric commission to the rights which exist in general legislation, like the Power Corporation Act. Any rights which exist now under special legislation were not continued. The city has asked that any special powers the former public utilities commission may have had related to hydro, parks, and recreation and water be continued. This motion will continue these hydro-related rights for the new commission and any parks, recreation and water rights for the city. No new rights are being provided. The amendment only deals with existing rights.

The Chair: Discussion? I guess we're ready to vote. All those in favour of the motion? Those opposed? Carried.

Government motion, subsections 24(1) and (2).

Mr Mills: I move that subsections 24(1) and (2) of the bill be struck out and the following substituted:

“Employees

“24(1) The city of London or a local board thereof, as agreed upon by the city and its local boards, shall offer to employ every person who was employed by the public utilities commission of the town of Westminster and the public utilities commission of the city on the 31st day of December, 1992.

“Salary or wage

“(2) A person who becomes an employee of the city or local board thereof under subsection (1) shall,

“(a) receive a salary or wage at a rate no less than the person was receiving on the day before the person began his or her employment with the city or a local board thereof under subsection (1); and

“(b) be credited with the same seniority that he or she had on the day before the person began his or her employment with the city or a local board thereof under subsection (1).

“Salary, etc, reduced for cause

“(2.1) Nothing in subsection (2) prevents the city or a local board thereof from reducing or eliminating the salary or wage rate or the seniority of an employee for cause.”

Perhaps we should amend that, as we did the other one, by inserting after “for” the word “just” cause.

This offers employment to be extended to all employees of the city of London's and the town of Westminster's public utilities commissions as at December 31, 1992.

The first reading bill required that London and Westminster PUC staff, as of April 1, 1992, all be provided with job offers from the city. The proposed amendment will require the city to offer jobs to employees of the PUCs as of year's end. Salaries and seniority rights for PUC employees who become employees of the city of London as a result of the

annexation remain what they were prior to annexation. The amendment, however, does allow an employer the normal right to make adjustments to salaries or seniority for just cause.

The Vice-Chair (Mr Kimble Sutherland): Okay. Any discussion?

Mr Eddy: Could counsel comment on “just cause”? Does that include such things as positions being declared redundant, or a surplus of employees in a certain—

Ms Susan Klein: If you're looking at me, I'm not sure about the employment law, but I see the counsel for the ministry coming forward.

Mr Gray: “Just cause” is certainly a term that the courts have defined any number of times. What it means is that somebody is worthy of discipline. It doesn't mean your job is redundant or you decide to get out of a certain area of activity.

Mrs Mathysen: Can I take it then that employees will be provided with counsel, legal help, in the case that the city of London did try to reduce their salary and seniority?

The Vice-Chair: Who would care to comment on that?

Mr Mills: It's probably the union that would provide that representation.

Mrs Mathysen: That would include all the non-unionized employees brought in? Everyone would be safe and protected?

Mr Mills: But I think the union will only protect the membership, if I'm correct.

The Vice-Chair: I think the assumption would be that those who aren't necessarily protected now, who would have to get their own counsel, would still have to get their own counsel otherwise.

Mr Mills: I think you do that in the general workplace.

Mr Ferguson: Just in response to the member for London-Middlesex's concern—

Mrs Mathysen: No, Middlesex. The London-Middlesex—

Mr Ferguson: I'm sorry, Middlesex. Maybe to her concern, the minister, by regulation, I think has the power under the act to provide for the security of employment and protection of employees. We have to assume certain things in this bill, and I think it's safe to assume that if the city—there's been no indication at this point that it is going to act in an arbitrary fashion, but if it does, the minister will be able to exercise his powers.

The Vice-Chair: Seeing no other comments at this time, I'll put the question. All those in favour? All those opposed? Carried.

Moving on, subsections 24(5), (6) and (7).

Mr Mills: I move that section 24 of the bill be amended by adding the following subsections:

“Conflict with OLRB order

“(5) In the event of a conflict between subsection (2) or a regulation made under subsection (3) and an order of the

Ontario Labour Relations Board under the Labour Relations Act, the subsection or regulation prevails.

"Arbitrator appointed"

"(6) The Minister of Municipal Affairs may, upon the application of the city or a local board thereof, an employee or a bargaining agent, appoint an arbitrator to hear and determine whether or not subsection (2) or a regulation made under subsection (3) is being properly applied in any particular case.

"Decision final"

"(7) The decision of the arbitrator is final."

These are the same provisions that apply to municipal employees in a previous—

The Chair: Motion.

Mr Mills: Motion, yes. I had a mind block there for a minute.

The Chair: Any discussion? All those in favour of the motion? Opposed? Carried.

Mr Eddy, Liberal motion, subsection 26(1).

Mr Eddy: Withdrawn.

The Chair: Mr Eddy, Liberal motion, subsection 26(2.1).

Mr Eddy: I move section 26 of the bill be amended by adding the following subsection after subsection (2):

"Same"

"(2.1) The city shall pass a bylaw by the 31st day of December, 2002, adding all the lands described in clause 2(1)(a) to the area of the hydro-electric power commission of the city to distribute and supply power."

1650

The Chair: Discussion?

Mr Mills: This amendment won't be supported by the ministry. It just forces them to do what they're going to do earlier, that's all.

Mr Eddy: It's covered in the bill?

Mr Mills: It's going to be covered.

Mr Sutherland: To clarify, they already have to do that before that date; is that what you're saying?

Mr Mills: It forces them into a timetable—that's what it does—that might not be appropriate.

The Chair: All in favour of the motion? Opposed? Defeated.

Liberal motion, subsection 26(21).

Mr Eddy: Withdrawn.

The Chair: Liberal motion, subsection 26(22).

Mr Eddy: Withdrawn.

The Chair: Subsection 26(23).

Mr Eddy: Withdrawn.

The Chair: Liberal motion, subsection 26(27).

Mr Eddy: Withdrawn.

The Chair: Government motion, clause 26(27)(b).

Mr Mills: I move that clause 26(27)(b) of the bill be amended by striking out "of the hydro-electric power commission of the city" in the eighth and ninth lines.

This is a technical amendment which deletes superfluous information related to the expansion of the service area.

The Chair: Discussion? All those in favour? Opposed? Carried.

Liberal motion, subsection 27(1).

Mr Eddy: Withdrawn.

The Chair: Liberal motion, section 29.

Mr Eddy: I move that section 29 of the bill be struck out and the following substituted:

"Official plan"

"(1) The city of London, before the 1st day of January, 1996, or such later date as may be prescribed by the Minister of Municipal Affairs, shall prepare, adopt and forward to the minister for approval an official plan,

"(a) to cover all of the lands within the city; and

"(b) to include policies or land use designations to replace policies and land use designations in the official plan of the city prescribed by the minister.

"Regulations"

"(2) The Minister of Municipal Affairs may by regulation prescribe,

"(a) a later date by which the city of London shall prepare, adopt and forward to the minister for approval an official plan for the purpose of subsection (1); and

"(b) policies and land use designations for the purpose of clause (1)(b)."

It just adds additional criteria.

The Chair: Discussion?

Mr Mills: Most of the amendment by Mr Eddy—well, (2)(a) and (b) are already done in our government motion, but to change the other one would require a complete new official plan. Of course, once you do that, everything could be appealed to the OMB, including everything we've done here today. Anything that's currently before the OMB could be appealed. There would have to be a whole new official plan, and they've just done one and it's before Municipal Affairs at this moment.

Mrs Mathysen: So you're saying that the agricultural land will be protected? You mentioned regulations. I have a question. When are the regulations that will accompany this bill going to be ready, the regulations that will protect land?

Mr Mills: As we sit here, it's being worked on right now.

Mrs Mathysen: When will they be ready?

Mr Mills: I can't foretell that. I know they're being worked on at the moment. It all depends.

Ms Neumann: Hopefully very soon.

Mr Mills: Immediately, if not forthwith.

Mrs Mathysen: Because I'm aware of legislation that was supposed to have regulations to accompany it which is currently on the books, and regulations have not been forthcoming. So I want to know that these are forthcoming as soon as possible, absolutely, no question.

Mr Mills: They are. Unequivocally.

Mrs Mathysen: You guarantee it?

Mr Mills: Guaranteed. Cross my heart. Everything.

Mrs Mathysen: Signed in blood—and trust me, I draw blood.

The Chair: All in favour of this motion? All those opposed? Defeated, and also Ms Mathysen's amendment, which is the same.

We go on to section 29, the government motion.

Mr Mills: I move that section 29 of the bill be struck out and the following substituted:

"Official plan required

"29(1) The city of London, before the 1st day of January, 1996, or such later date as may be prescribed by the Minister of Municipal Affairs, shall prepare, adopt and forward to the minister for approval an official plan that covers or includes,

"(a) all of the lands annexed to the city by this act;

"(b) all or part of the land that formed the city on the 31st day of December, 1992, as designated by the minister; and

"(c) policies and land use designations to replace certain policies and land use designations in the official plan of the city that is in effect on the 31st day of December, 1992, as designated by the minister.

"Idem

"(2) The minister may by regulation,

"(a) prescribe a date for the purpose of subsection (1);

"(b) designate lands for the purpose of clause (1)(b); and

"(c) designate policies and land use designations for the purpose of clause (1)(c)."

By way of explanation, the first reading bill stipulated that the new official plan for the total enlarged London area be prepared by January 1, 1995. The city has asked for more time to prepare a new official plan, so the deadline has been extended one year, to January 1, 1996.

Also, because the city of London has worked on a comprehensive official plan very recently, the coverage of the new official plan has been made clearer so that the city can keep some aspects of that official plan.

The Chair: Discussion?

Mrs Mathysen: I find this a bit confusing. It seems to me that you're creating two official plans, one for the current city and one for the annexed area. Is that what you are doing?

Mr Mills: Yes, that's true. Except for some amendments to the current plan, what you said is true.

Mrs Mathysen: How will this be beneficial? I'm confused, because it was my understanding that all this land was to be annexed so that London could have room for massive planning and good planning. And two official plans are going to do this, they're going to effect this wonderful planning?

Mr Mills: It doesn't necessarily follow that we want everything in the old official plan to be changed. Some of the stuff is good.

Mrs Mathysen: Have you been to London?

Mr Sutherland: I just want to clarify. First of all, we have a current official plan. The city has gone through a process to develop a new official plan. Has that new official plan been ratified?

Mr Mills: No.

Mr Sutherland: But work has been done on that, and then you've got the official plan for the enlarged area?

Mr Mills: That's right.

Mr Sutherland: So we're really talking three different elements: the current official plan, the one they've done the work on and then one for the enlarged.

Ms Neumann: The one that's had work done on it is currently at the OMB; the point is not to have that whole OMB process repeated.

Mrs Mathysen: It will be the divine official plan when it's done. Is this what you're saying?

Ms Neumann: It can be amended as necessary, but we won't require them to amend the whole thing, which means it could all be back at the OMB for another year-long hearing.

1700

Mr Ferguson: My only question about the government motion is the option for the Minister of Municipal Affairs that it may be extended. I just wonder where the impetus is to have it completed by 1996 if in fact the minister can arbitrarily extend the deadline for an official plan. Under the current Planning Act—I haven't memorized the Planning Act—does that kind of discretionary power lie with the minister?

Ms Neumann: They can take as long as they like now.

Mr Ferguson: Under the Planning Act.

Ms Neumann: They can take 20 years to do one plan.

Mr Ferguson: What's being suggested here is that provided the minister says, "Yes, that's okay, we'll give you a couple of more years," they can take 20 years as well.

Ms Neumann: I think we're just worried about a couple of more months, if we got that. We've got no intention of extending it.

Mr Sutherland: You said about the one before the OMB now and about one for the enlarged area. In Ms Mathysen's question it was implied that there are almost two plans. What can be amended out of the one before the OMB, of course, would be the protections we put in here. For example, the social plan: If they haven't developed any social planning in the current one, they have to go back and make accommodation for that, environmental planning etc, the protections here.

Ms Neumann: Yes.

Mr Sutherland: Okay.

The Chair: All those in favour of the amendment, put up their hands.

Mr Mills: Which amendment? What are we talking about?

The Chair: Section 29, on the government motion. What have we got? Those opposed? One? You're not opposed, or—

Mr Eddy: I see the advantage. It's a lot of work to do the city of London official plan. There are some good things, I hope, in it.

Mr Mills: Incredible as it may be—

The Chair: Okay, it's carried. Go ahead.

Mr Mills: I was going to say, the book is fat and it's 5 o'clock.

The Chair: I have a hard time counting votes by expressions on faces.

Government motion, subsection 30(2).

Mr Mills: I move that subsection 30(2) of the bill be amended by striking out "the official plan" in the first and second lines and substituting "an official plan."

It's a technical amendment reflecting the fact that under section 29 more than one official plan will cover the city.

The Chair: All those in favour of the government motion? Okay, carried.

Government motion, subsection 31(1).

Mr Mills: I move that subsection 31(1) of the bill be amended (a) by striking out "section 29" in the second line and substituting "clause 29(1)(a)," and (b) by striking out "the lands annexed to the city" in the seventh line and substituting "the lands to which this subsection applies."

By way of explanation, the first reading bill specified that until the city's new official plan is approved no building permits can be issued for annexed land that is not fully serviced. This proposed amendment is technical, resulting from proposed changes to section 29 regarding official plan coverages in the city.

The Chair: Discussion? All those in favour of the government motion? Opposed? Carried.

Government motion, subsection 31(2).

Mr Mills: I move that subsection 31(2) of the bill be struck out and the following substituted:

"Application

"(2) Subsection (1) applies to the following lands:

"1. The lands in the city of London, formerly in the town of Westminster, consisting of part of lots 14 to 20 in Concession IV and part of lots 13 to 18 in Concession III and designated 'special commercial,' 'commercial' or 'industrial' in the city of London official plan in effect on the 1st day of January, 1993.

"2. The lands in the city of London, formerly in the town of Westminster, consisting of part of lots 19 to 26 in Concession III and part of lots 30 to 36 in Concession II and designated 'special commercial,' 'commercial,' 'industrial' or 'industrial special policy area' in the city of London official plan in effect on the 1st day of January, 1993.

"3. The lands in the city of London, formerly in the town of Westminster, consisting of part of lots 68 to 73 in Concession West of Talbot Road and part of lots 68 to 73 in Concession East of Talbot Road and designated 'commercial' or 'residential' in the city of London official plan in effect on the 1st day of January, 1993.

"4. The lands in the city of London, formerly in the township of London, consisting of part of lot 24 in Concession II, part of lots 24 to 26 in Concession III, part of lots 24 to 26 in Concession IV and part of lot 25 in Concession V and designated 'hamlet,' 'industrial' or 'highway commercial' in the city of London official plan in effect on the 1st day of January, 1993.

"Regulations

"(2.1) The Minister of Municipal Affairs may by regulation prescribe,

"(a) additional lands to which subsection (1) applies;

"(b) any land included in subsection (2) to which subsection (1) shall no longer apply; and

"(c) any land uses to which subsection (1) shall apply."

By way of explanation, this proposed amendment specifies what lands are affected by the development restrictions mentioned in subsection 31(1). The restrictions apply only to land presently designated for urban types of development. This is to prevent sprawl-type, privately serviced development, which has led to health and environmental problems in the past. These areas were agreed upon as part of the transition exercise.

An additional clause has been added that allows the minister to prescribe other lands in the annexed area that would be subject to the same restrictions, land identified in subsection 31(2), where the restrictions would be lifted on any specific land uses to which subsection 31(2) applies.

The Chair: Discussion? All those in favour of the government motion? Opposed? Carried.

Liberal motion, subsection 31(2.1), Mr Eddy.

Mr Eddy: I move that section 31 of the bill be amended by adding the following subsection after subsection (2):

"Same

"(2.1) Despite subsection (1), building permits may be issued for the construction of accessory buildings, internal renovations, replacement of a structure damaged by fire, wind or similar causes beyond the owner's control and for any construction that does not add any additional loadings to existing septic operations."

This expands on the exceptions listed in the bill with respect to the issuing of building permits. I'm not sure whether it's covered or not already.

Mr Mills: I believe the member for Middlesex has an improved amendment of this, if she'd like to read it.

Mrs Mathyssen: Yes, with all due respect, I would like to move subsection 31(2.2). It's a renumbering.

I move that section 31 of the bill be amended by adding the following subsection after subsection (2):

"Same

"(2.2) Despite subsection (1), building permits may be issued for the construction of accessory buildings, internal renovations, replacement of a building damaged by fire, wind or similar causes beyond the owner's control and for any construction that can be adequately serviced by a sewage system existing on the 31st day of December, 1992."

Quite simply, it's to ensure that people in rural areas needing accessory buildings or who, through no fault of their own, have suffered damage by fire or wind or who are in fact renovating aren't penalized or prevented from doing what is necessary.

The Chair: Would you withdraw your motion?

Mr Eddy: Yes. This is better.

The Chair: Okay. Discussion on the amendment?

Mr Mills: The ministry can support this amendment.

The Chair: All those in favour of subsection 31(2.2), Ms Mathyssen's motion? Carried.

Government motion, subsection 31(3).

1710

Mr Mills: I move that subsection 31(3) of the bill be amended by striking out "section 29" in the second line and substituting "clause 29(1)(a)."

By way of explanation, in the first reading of the bill, section 31(3) states: "Until the official plan...is approved, the city" of London "shall not extend its water or sanitary sewage systems or assume ownership and responsibility for the operation of a water or sanitary sewage system that will service any of the lands annexed to the city without the approval of the Minister of Municipal Affairs." The above provision remains, but there is a need for this consequential amendment to reflect a newly numbered subsection.

The Chair: Discussion? All those in favour? Opposed? Carried.

Ms Mathyssen, subsection 31(4).

Mrs Mathyssen: I move that section 31 of the bill be amended by adding the following subsection:

"Exception

"(4) Despite subsection (3), the city may extend its water and sanitary sewage systems to provide the services as set out in section 2.1 without the approval of the Ministry of Municipal Affairs."

My concern here is that there are some areas in the newly annexed areas that are in need of sewage remediation and they must be remediated, specifically Southwinds and Canterbury Estates; also, of course, the area in Arva. So I need assurances that nothing within the bill would preclude the remediation necessary there.

The Chair: Ms Mathyssen, at the very end, it said, "without the approval of the Minister"? You said "Ministry." Do you mean "Minister"?

Mrs Mathyssen: I'm sorry, I didn't realize I said "Ministry."

The Chair: Okay, the "Minister of Municipal Affairs." Discussion?

Mr Mills: I'd like to comment that they can do this now with the permission of the minister, but if this amendment were to go ahead, it would provide, in the ministry's opinion, for substantial development in the annexed area prior to the new official plan coming into force and would conflict with the need to study appropriate land uses and densities in the annexed area. For that reason, we will not support it.

Mr Eddy: The very reason for the January 1, 1993, deadline and the fact that we're rushing to complete this bill so it can indeed be presented for third reading in the House is so that certain developments can proceed. I understood the rush is simply because the city has on hold certain developments it needs and wants. It's the whole reason for the hurried agenda and this would stifle that, it seems to me.

Mr Mills: That's not quite correct. This can happen now with the minister's approval.

Mr Eddy: Oh, with the minister's approval?

Mr Mills: Yes.

The Chair: Okay, all those in favour of Ms Mathyssen's motion? Those opposed? Defeated. The Liberal motion, which was worded the same, is defeated also.

Government motion, clause 32(a).

Mr Mills: I move that clause 32(a) of the bill be amended by striking out "section 29" in the second and third lines and substituting "clause 29(1)(a)."

The reason? It's a consequential amendment to reflect the newly numbered subsection.

The Chair: Discussion? All those in favour of the government motion? Opposed? Carried.

Government motion, subsection 32(2).

Mr Mills: I move that section 32 of the bill be amended by adding the following subsection:

"Exception

"(2) The Minister of Municipal Affairs may by regulation designate lands or uses to which this section does not apply."

By way of explanation, as in the first reading of the bill, section 32 doesn't allow for any redesignation of agricultural land to other uses for 10 years from the date of the approval of the new official plan of the city of London.

The proposed subsection 32(2) allows the Minister of Municipal Affairs by regulation to designate lands or land uses to which this provision does not apply in the agricultural area. This is intended to allow for minor amendments that would reflect land uses typical of an agricultural area, as well as for any specific economic renewal opportunities. This proposed amendment derives from suggestions made by local municipalities as part of the transition exercise.

The Chair: Discussion?

Mr Eddy: I had a question. I'm not quite clear. It had to do with the explanation from the parliamentary assistant and it was for buildings and agricultural land and renewal.

The Chair: Economic renewal?

Mr Eddy: There's a lot more than agricultural land. There are many hamlet areas etc.

Mrs Mathyssen: I understand this is to allow for agriculturally related practices, like a dryer or a repair shop. I have a question. Are these subject to regulations under the Planning Act?

Mr Mills: No, they're under this act.

Ms Neumann: What's the question?

Mrs Mathyssen: Are these subject to regulations under the Planning Act?

Mr Mills: Agriculture and things like that, you mean?

Ms Neumann: This is meant to allow for an official plan amendment that's unforeseen but would be a normal use in an agricultural area, such as a tractor dealership that hadn't been foreseen and that we would have the power to permit. Otherwise, the official plan prevails in the area. So most agricultural uses would be permitted as a right and don't require any ministerial approval.

Mrs Mathyssen: Usually these things are done by zoning?

Ms Neumann: Yes. Most things would be approved by the existing zoning, would be permitted under the existing rural and agricultural zoning. This is just to allow further minor changes.

Mrs Mathysen: It just seems that in many of these there's a double-edged sword. There's a fear of abuses, and I guess I need to know that there won't be abuses.

The Chair: All those in favour of the government motion? Those opposed? Carried.

We have a Liberal motion on section 33. I move that—oh, go ahead, Mr Eddy.

Mr Mills: Don't get carried away.

Mr Eddy: I'd be pleased to have you do that.

I move that section 33 of the bill be struck out.

This section eliminates or disallows the townships of Delaware, Lobo, London, North Dorchester and West Nissouri from issuing building permits.

The Chair: Discussion?

Mr Mills: We've got a better motion coming.

The Chair: All those in favour of the motion? Those opposed? Defeated.

Also, Mrs Mathysen's, which is the same, is defeated.

We'll go on to subsection 33(3).

Mr Mills: I move that subsection 33(3) of the bill be struck out and the following substituted:

"Building permits withheld by township

"(3) The chief building official of a township shall not issue a building permit for the construction of a building on any of the lands in the township designated by the minister under subsection (2) unless,

"(a) the building is for the purpose of a land use that conforms with the official plan of the township in effect on the 1st day of January, 1993; or

"(b) the building is for the purpose of a land use that is prescribed by the minister.

"Regulation, land uses

"(3.1) The minister may by regulation prescribe land uses for the purpose of clause (3)(b)."

1720

By way of explanation, the proposed subsection 33(3) states:

"The chief building official of a township shall not issue a building permit for the construction of a building on any of the lands in the township designated by the minister—of Municipal Affairs—"under subsection (2) unless,

"(a) the building is for the purpose of a land use that conforms with the official plan of the township in effect on the 1st day of January, 1993; or

"(b) the building is for the purpose of a land use...prescribed by the minister" of Municipal Affairs.

This proposed amendment also derives from discussions with local municipalities as part of the transition process. It reflects the up-to-date nature of the underlying official plan policies and designations in the affected townships.

The Chair: Discussion? Mr Eddy.

Mr Eddy: I oppose the amendment because I think all property owners should have the right to apply to change

designations under the planning process that's in use in the province of Ontario for all property owners.

The Chair: Further discussion? Vote on the motion: All those in favour of the government motion? Those against? Carried.

Government motion, subsection 33(4), Mr Mills.

Mr Mills: I move that subsection 33(4) of the bill be struck out and the following substituted:

"Official plan deemed to conform

"(4) An official plan or an official plan amendment that affects any of the lands designated under subsection (2) and that is approved by the minister or the Ontario Municipal Board shall be deemed to be in conformity with any regulation made under subsection (3.1) that is in force on the day of the approval."

By way of explanation, this section confirms that a regulation made by the Minister of Municipal Affairs under clause 33(3)(b) conforms to any official plans approved after the regulation is made.

The Chair: Discussion? All those in favour of the government motion? Those opposed? Carried.

Mr Mills: Come on, Ron, this is your moment.

Mr Eddy: I had it a long time ago.

The Chair: Section 34 is out of order, the motions from the government, Mrs Mathysen and the Liberals.

We go on to government motion, section 36.

Mr Sutherland: What do you mean, they're out of order?

The Chair: We just vote against the section when it comes up in the bill. We haven't voted on the sections yet. I'm just taking direction from the clerk on this one. We have to vote on all the sections, so when it comes through we'll vote at that time.

Mr Eddy: Mr Chair, I move that section 34 of the bill be struck out.

Mr Sutherland: That's what he just ruled out of order.

Mr Eddy: Oh, did he?

Mr Mills: We're going to come back to that one.

The Chair: I'm just taking direction from the clerk on that one, because we're doing it a little bit differently here going through this bill.

Government motion, section 36, Mr Mills.

Mr Mills: I move that section 36 of the bill be amended by striking out the definitions "weighted assessment" and "weighted equalized assessment."

Again, this is a technical amendment. As a result of the deletion of sections 37 and 38, this is no longer required. Technical stuff.

The Chair: Discussion? All those in favour of the government motion? Opposed? Carried.

We'll deal with sections 37 and 38 when we go to clause-by-clause.

We go on to government motion, subsection 39(1), Mr Mills.

Mr Mills: I move that subsection 39(1) of the bill be amended by striking out "Despite section 38" in the first line and substituting "in 1993."

This is due to changes in sections 38 and 47. This section only applies in 1993, so it wouldn't make much sense to have "1992" there.

The Chair: Discussion? All those in favour? Opposed? Carried.

Mr Ferguson: A lot of these are housekeeping items now. I'm wondering, in order to expedite the process, if we could deal with any further concerns that Mr Eddy has or Mrs Mathysen has and then deem that all the other government motions that are before the committee are deemed to have been made.

The Chair: They have to be read, Mr Ferguson.
Liberal motion, subsection 40(1.1), Mr Eddy.

Mr Eddy: I move that section 40 of the bill be amended by adding the following subsection after subsection (1):

"Limitation

"(1.1) For the merged areas, the education levy after 1993 shall not be raised greater than one half the average of the Board of Education for the City of London and the Middlesex County Board of Education levy for three subsequent years."

This provides some protection for the ratepayers in the annexed areas.

The Chair: Discussion. Mr Mills.

Mr Mills: The Ministry of Municipal Affairs cannot support this amendment, because the education levies and education taxes may be continued or changed in the Ministry of Education's apportionment regulations, and the Ministry of Municipal Affairs is not dictating to the Minister of Education or overriding the Education Act. That is why we can't—are you happy with that explanation?

The Chair: Okay. Are we ready for the vote?

Mr Eddy: I was asked a question, so in response I would say I'd rather see this passed, and then if there's something further about education it could affect this.

Mr Mills: Yes, I see.

The Chair: All in favour of this motion? All those opposed? Defeated.

We go on to the government motion on subsection 41(1).

Mr Mills: I move that subsection 41(1) of the bill be struck out. This is a technical amendment. The subsection is no longer required because of changes to section 47.

The Chair: All those in favour? No opposed. Carried.
Government motion, section 42, Mr Mills.

Mr Mills: I move that section 42 of the bill be struck out and the following substituted:

"Apportionment of conservation authority levies

"42. Where this act directly or indirectly affects the relative cost-sharing of conservation authority levies for any municipality outside the county of Middlesex or causes within the county substantial tax shifts between municipalities, property classes or individual properties, the Minister of Municipal Affairs may, in order to minimize such effects, make regulations prescribing an alternative

basis of apportionment to that specified under the Conservation Authorities Act."

By way of explanation, the proposed amendment eliminates provisions contained in section 42 of the first reading bill, which dealt with the reassessment of the entire city of London under section 58 of the Assessment Act.

It also adds a section, which would allow the minister to regulate an alternative apportionment to the one specified in the Conservation Authorities Act, but only where relative cost-sharing is affected. This provision will resolve concerns expressed by many municipalities in southwestern Ontario that would have been adversely affected.

The Chair: Discussion? Mr Sutherland.

Mr Sutherland: Could I just ask, in terms of where the status of reapportionment is right now in terms of the conservation authorities: Is that something being discussed through the transition process, or how is that resolved? Does the authority have to do that itself?

Mr Mills: We have just asked staff to make a comment on that.

Dr Kathleen Chinnery: I'm Dr Kathleen Chinnery. I'm from the municipal finance branch. I guess what I can say is that we have received submissions from all the conservation authorities in this area that will be affected by the annexation.

We are looking at the redistribution of the levies that will occur because of changes in the assessment bases of all the municipalities, particularly the contributions that the city of London will make in the future, given its new tax base.

At the moment, we are working with the Ministry of Natural Resources in order that its regulation will reflect the same basis of apportionment as is consistent at this time so that we will make sure there are not significant tax shifts just because of the annexation.

1730

Mr Sutherland: If I could just ask, though, implied with what you said is that the city, with its increased tax base, would therefore get a greater apportionment of that. That would imply some tax shifts downward for the other municipalities who apportion the share, or no?

Dr Chinnery: I guess the concern, for example, of the township of Lobo in the county of Middlesex has been that the basis on which the levies are apportioned is not only the assessment base of a municipality but also the land area of the municipality within that conservation authority. As a result of the shifts in the city of London boundary, the township of Lobo will have to contribute more towards the levy because the city of London's proportion declines. For example, it's a case where the township of Lobo has made it clear to the minister and to ministry staff that it feels it cannot afford additional levies.

Mr Eddy: I'm sorry, I'm at a loss on this one. I can't see why the township of Lobo would have to pay one more cent to the Upper Thames—I think that's the only one in the case of Lobo—because the town of Westminster and so much area is to be annexed into the city. I would

have thought that was automatic. What's happening here? Are you saying the formulae have to be changed to recognize the increased assessment of the city, to pay more?

Dr Chinnery: That's right, and it's also the land area of the city, because it's not just based on the amount of assessment; it's based on the proportion of the total land area in the conservation authority, and because those are shifting, we have to alter the apportionment of the levies.

Mr Eddy: So the city will pay its share plus what had been the town of Westminster's share, perhaps?

Dr Chinnery: For example, yes.

The Chair: All those in favour?

Mr Murdoch: Mr Chairman, just a minute. You said the township of Lobo is going to have less land now, right?

Dr Chinnery: No, what I—

Mr Murdoch: They're going to pay more, though, because London's taking land from somewhere else? I can't understand how they could pay more. If nothing happened to them, they shouldn't—

Dr Chinnery: Because conservation authority areas do not coincide with municipal boundaries—

Mr Murdoch: Yes, I know that quite well.

Dr Chinnery: So for example, in the case of the Upper Thames, because of the change in the city of London boundaries, the township of Lobo will have to pay a higher proportion of the total cost because its land area in the conservation authority is more.

Mr Murdoch: In the watershed, you mean, not the conservation authority. The land the conservation authority owns has nothing to do with it.

Dr Chinnery: No, it's the watershed.

Mr Murdoch: That's right. But the township of Lobo hasn't changed in size.

Dr Chinnery: That's right, its tax base has not changed. It has to do with the other municipalities which are contributing to the levy—

Mr Murdoch: But other municipalities are going to have to pay more too then, not just the township of Lobo.

Dr Chinnery: That's right. I was just giving an example of the case of the township of Lobo.

Mr Murdoch: So everybody's going to have to pick up what they're losing from London.

Dr Chinnery: Yes.

Mr Murdoch: Then that's maybe a little better. I just couldn't think why one township would have to pay more.

Dr Chinnery: No, I was just giving that as an example of a township that had made it clear to the minister that it was definitely concerned.

Mr Mills: All this does is straighten it out to make it as it was before. There's no change in anything. It's exactly the same as it was before.

Mr Murdoch: If someone pays more money, there's a change.

Mr Sutherland: My apologies for opening up the issue.

The Chair: Thank you, Mr Sutherland.

Mr Sutherland: There are a few municipalities in my riding that may be affected, so I just wanted it clarified.

The Chair: Okay. After all the discussion, are we ready to vote? All in favour of the government motion? Those opposed? Mr Murdoch?

Mr Mills: You can't sit on the fence.

The Chair: Carried.

The Chair: Ms Mathysen, subsection 43(1).

Mrs Mathysen: I move that subsection 43(1) of the bill be amended by adding at the beginning "Despite any other provision of this act."

Mr Mills: That amendment is not required. The government motions to strike out sections 37 and 38 have already occurred.

The Chair: All those in favour? All those opposed? Defeated, and also the Liberal motion is defeated; same wording.

Government motion, subsection 43(1.1).

Mr Mills: I move that section 43 of the bill be amended by adding the following subsection after subsection (1):

"Idem

"(1.1) In 1993, for the areas annexed under clauses 2(1)(b) to (e), inclusive, the annexing municipality shall, in the manner prescribed by the Minister of Municipal Affairs, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the area,

"(a) rates of taxation for general purposes which shall be the total of the 1992 rates of taxation in that area for general purposes, increased or decreased by the percentage change in the 1993 own purpose general mill rate of the annexing municipality as compared to the 1992 own general mill rate of the annexing municipality; and

"(b) rates of taxation for county of Middlesex or county of Elgin purposes, as the case may be, which shall be the total of the 1992 rates of taxation in that area for county purposes, increased or decreased by the percentage change in the 1993 county purposes mill rate of the annexing municipality as compared to the 1992 county purposes mill rate of the annexing municipality."

By way of explanation, this amendment extends tax protection measures beyond the city of London. It provides that anyone living in the municipality in Middlesex, directly or indirectly affected by the annexation, won't see their tax rate increase beyond what people in the annexing municipality pay. This applies to annexed municipalities in the county of Middlesex and properties annexed to the village of Belmont in the county of Elgin.

The Chair: Any discussion on the motion? Seeing none, all those in favour of the government motion? Those opposed? Carried.

Government motion, subsection 43(2), Mr Mills.

Mr Mills: I move that subsection 43(2) of the bill be struck out and the following substituted:

"Regulations

"(2) The Minister of Municipal Affairs may by regulation prescribe the manner in which an annexing municipal

shall levy rates of taxation for the purposes of subsections (1) and (1.1).

“May be retroactive

“(3) A regulation under subsection (2) may be made retroactive to a date not earlier than the 1st day of January, 1993.”

This amendment prescribes how annexing municipalities will levy rates of taxation for the purposes of subsections (1) and (2).

The Chair: Discussion?

Mr Mills: I beg your pardon, Mr Chairman, there seems to be—that’s why I had trouble pronouncing it. After the word “annexing” in subsection (2), “Regulations,” it says “annexing municipal” and that’s where I got fouled up. It should be “municipality,” and I make that amendment. When I read it, it didn’t sound right.

The Chair: Discussion? Okay.

All those in favour of the government motion? Those opposed? Carried.

1740

Ms Mathysen, subsection 44(1).

Mrs Mathysen: I move that subsection 44(1) of the bill be amended by striking out “may” in the second line and substituting “shall.”

Quite simply, if any of you know the status of the rural community these days, you’ll know that the life on the farm and the amount of money that people make is very limited, so increases in their taxes are going to perhaps preclude them from continuing in the occupation of farming. I believe that if “shall” is substituted for “may,” there is a sense that they will indeed be given the kind of protection that they need so that they can continue and be viable and feed this province.

Mr Mills: Just to speak to that, the word “may,” as we have discussed previously, is the usual legislative term. As well, the minister has stated publicly that he has every intention of extending tax-increase protections for a 10-year period.

The Chair: Discussion?

Mr Eddy: That matter has come up before, and I support the amendment. I recall in the Municipal Act that there’s section after section stating “the council shall,” “the council shall.” It is very common to use the word “shall” in statutes. I support the amendment.

Mr Mills: There’s a difference between municipal “shall” and legislative minister “shall.”

Mr Ferguson: Given the minister’s statement that he’s going to put in the protection, then I assume the ministry wouldn’t object to “shall.”

The Chair: They object. It’s the language.

Mr Mills: Yes, it’s not legislative form. We don’t use that language, believe it or not. We do not use the word “shall.” The usual legislative term is “may.”

Mr Sutherland: Because it’s enabling. If it’s enabling, the word “may” is used.

Mr Mills: That’s right.

Mr Sutherland: The other provisions you talked about where “shall” was used are not enabling in that sense. That’s something you have to follow. This is enabling.

Mr Eddy: All legislation is enabling; some is mandatory and some is permissive, but it’s all enabling, in a sense.

Mr Murdoch: I would like to support Mr Ferguson. He said the minister has said that, so what’s wrong with using it? I certainly could support him.

The Chair: Mr Murdoch, this motion had come up in another clause, and it was already passed that they would use the word “may.” I guess we have to put it to a vote here again.

Mr Murdoch: Well, that’s fine.

The Chair: All those in favour of Miss Mathysen’s motion? Four. Those against? I guess I’ve got to vote on that one. Defeated.

We’re on to government motion, section 44.

Mr Mills: I move that section 44 of the bill be amended as follows:

“1. In subsection (1), by striking out ‘the city of London’ in the fourth line and substituting ‘an annexing municipality’.

“2. In subsection (2), by striking out ‘the city’ in the second line and substituting ‘an annexing municipality’.

“3. In subsection (4), by striking out ‘the city of London’ in the sixth and seventh lines and substituting ‘the annexing municipality’.”

By way of explanation, the proposed amendment to section 44 provides that all municipalities in the county and county tax rates may be protected from 1994 to 2003, inclusive. It will permit the minister to make regulations to limit tax increases in areas annexed to the city of London, municipalities in the county of Middlesex and properties annexed to the village of Belmont in the county of Elgin.

The Chair: Discussion? All those in favour of the government motion? Opposed? Carried.

Mr Sutherland: Mr Chair, on a point of order at this time: As you recall, earlier this morning we talked about the time limits we are faced with in terms of dealing with all these amendments, given the fact that we originally were to have two days to do clause-by-clause, and we gave up one of those days so we could have another day of hearings because there were a great number of groups who wanted to.

I would like to suggest at this time that we go to the amendments, have them read in by each group—Liberal, Ms Mathysen and government—and then vote on them as omnibus in each group to speed up the process. We still have to have section-by-section vote and it is getting on in the day. I would suggest that we do that, read them all in at once from each group, and then vote on them as one.

The Chair: I’ll take direction from the committee, if the committee agrees.

Mr Mills: Agreed.

Mr Eddy: I absolutely disagree. This is a very important bill. So what if we have to go 10 minutes beyond? We’re making good progress. We lost some time at the

beginning through all of us wanting to do some other things probably.

The Chair: Carry on the way we are?

Mr Sutherland: Can we now put that to a vote? What are the rules?

Mr Eddy: It's up to the government. We're at the mercy of the government. It's as simple as that.

The Chair: The clerk figures that this is a better and quicker way.

Mr Eddy: The clerk doesn't have a vote.

The Chair: This is what we agreed upon when we started.

Mr Eddy: If you want to have a vote, we'll vote. This here is democracy.

Mr Sutherland: Mr Eddy, earlier today you agreed upon that that basic principle. I'm just trying to help facilitate that principle.

Mr Eddy: Mr Sutherland, it's far too important to cut it off at this stage. We lost time at the beginning. If we'd had that time—and I was quite willing. If somebody wants to show a video and it will help us, I want to see what it's like. I try to get as much information on any and every issue that I can. You have to do that and sometimes you might do what's called wasting time, and we did lose some time. We were at fault on one occasion. We didn't have our amendments. I apologize to everyone. It should not have happened, it did happen and I apologize for that action. I'm sorry that we didn't have our amendments.

Mr Mills: Might I suggest a solution, if we can have agreement for extended time this evening, understanding that we do have to deal with this by tonight? If everyone is in agreement to extending the time, I think that would be the way to proceed.

Mr Brad Ward (Brantford): For how long?

The Chair: Until we're done.

Mr Mills: Until we're done. I mean, we have to get it done tonight.

Mr Sutherland: I would say that at the rate we're going, it's going to be close to 30 minutes we're looking at, at least—to 6:30.

Mr Eddy: Is 30 minutes a crime?

Mr Sutherland: No, but some members do have to leave. They have commitments back in their riding.

Mr Eddy: I do too. I have to be in Dunnville at 7 o'clock.

Mr Murdoch: I'd have to agree with Kimble, because I don't think it's worth the time we're taking. If you notice, we didn't have any amendments. I didn't think they were worth bringing in. I had one amendment, and that was to scrap the bill because the whole bill is flawed. That's what I would have done, but obviously you can't do that. So I'd agree with Kimble Sutherland that there's no sense sitting here. I understand what Ron wants to do, because it's more dear to his heart; he was the clerk-administrator of the municipality that you're destroying. But I think that it is a waste of time being here. Sorry, Ron; I think after you've

been here a lot longer, you'll find out that there's no democracy anyway.

Mr Sutherland: Let's be clear that I'm not moving it because I'm saying it's a waste of time. Amendments from oppositions have been—

Mr Murdoch: I didn't say that; I just agreed with you that it was a waste of time.

The Chair: Mr Murdoch and Mr Sutherland, we just wasted another five minutes. We should carry on. We could have got through three more amendments.

Mr Murdoch: Mr Sutherland asked for a vote. Do we not get a vote? Maybe we don't get votes around here any more.

The Chair: I don't believe I heard him asking for a vote.

Mr Murdoch: I mean, they don't mean a hell of a lot anyway when we do get them.

Mr Sutherland: Keep going, then.

The Chair: Liberal motion, subsection 44(1.1).

Mr Eddy: I move that section 44 of the bill be amended by adding the following subsection after section (1):

“Limitation

“1.1 Where existing special purpose charges are in effect, special area rates shall not increase by more than 5 per cent in any one year from 1994 to 2003.”

This is limiting tax increases to no more than 5%.

Mr Mills: We cannot support this amendment, because the special area rates are supposed to reflect the true costs of providing the specific services to the area. If this cost increases faster than 5%, the rate should go up to reflect the true cost. In other words, this amendment sticks them at 5% for any one year, and we shouldn't do that.

1750

The Chair: Further discussion? All those in favour of the Liberal motion? Opposed? Defeated.

Mrs Mathyssen, subsection 45(2).

Mrs Mathyssen: I move that section 45 of the bill be amended by adding the following subsection:

“Same

“(2) The minister may by order, on such conditions as the minister considers appropriate, make grants or loans for the purpose of offsetting undesirable increases in taxes caused by this act and such grants or loans may be designated to apply to the taxes from any one or any combination of merged areas.”

The Chair: Discussion?

Mr Mills: I'd just like to comment. This amendment is not required because under section 45, dealing with tax raising, we can do this thing already.

The Chair: Further discussion? All those in favour of Mrs Mathyssen's motion? Opposed? Defeated.

Also, Mr Eddy's Liberal one is defeated.

Liberal motion, subsection 46(2).

Mr Eddy: I move that subsection 46(2) of the bill be amended by striking out “may” in the first line and substituting “shall.”

It makes it necessary that the city of London make bylaws re urban services.

The Chair: Discussion, again?

Mr Mills: We will not support this amendment because traditionally we don't bind the minister's regulation requirements in legislation, and that's what this would do.

The Chair: All those in favour? All those opposed? That's three and three.

Mr Mills: Well, I think—

The Chair: No, no. I have to vote and I'm against it. Defeated.

Liberal motion, subsection 46(4).

Mr Eddy: I move that subsection 46(4) of the bill be amended by striking out "may" in the first line and substituting "shall."

This makes the minister make regulations re determination of rates for urban services.

The Chair: Shall the vote be the same? Agreed? Defeated.

Government motion, subsection 46(4).

Mr Mills: I move that subsection 46(4) of the bill be amended by striking out "1993" in the third line and substituting "1994."

By way of explanation, this amendment is to provide the minister with authority to implement urban service areas by January 1, 1994, instead of January 1, 1993. Extending the implementation period for urban services permits the city of London additional time to prepare for providing new urban services to areas annexed to the city. In 1993, section 43 of this act limits tax increases in annexed areas. In 1994 and future years, ratepayers in the areas annexed to the city will not pay for urban services they're not receiving from the city.

The Chair: All those in favour of the government motion? Those opposed? Carried.

Ms Mathysen, subsection 46(6).

Mrs Mathysen: I move that section 46 of the bill be amended by adding the following subsection:

"Appeal

"(6) The appeal provisions in subsections 26(13) to (20) apply with necessary modifications to a bylaw made under this section."

The Chair: Questions or comments?

Mr Mills: I can't support this amendment because the regular OMB appeal service provisions should apply in this situation. There is no need for special provisions as were required to the hydro-electric situation.

The Chair: Further discussion? All those in favour of Ms Mathysen's motion? All those against? Defeated.

Also, the Liberal motion which stated the same is defeated.

Government motion, section 47.

Mr Mills: I move that section 47 of the bill be struck out and the following substituted:

"Assessment roll for 1993, London

"47(1) For the purposes of the assessment roll to be prepared for the city of London under subsection 14(1) of

the Assessment Act for the 1993 taxation year, the real property in an area annexed to the city shall be assessed in the same manner as similar real property in the municipality from which the real property was annexed.

"Same, other annexing municipalities

"(2) For the purposes of the assessment roll to be prepared for an annexing municipality other than the city of London under subsection 14(1) of the Assessment Act for the 1993 taxation year, the real property in the area annexed to the annexing municipality shall be assessed in accordance with the classes of real property and the factors prescribed for the annexing municipality by regulation under the Assessment Act or the Municipal Act, as the case may be.

"Assessment roll of 1994, London

"(3) For the purposes of the assessment roll to be prepared for the city of London under subsection 14(1) of the Assessment Act for the 1994 taxation year, the real property in the area annexed to the city shall be assessed in accordance with the classes of real property and the factors prescribed for the city by regulation under the Assessment Act."

This section sets out how properties will be assessed following annexation in London and other annexing municipalities. It's important to note that regardless of how annexed properties end up being assessed, there is no tax increase protection set out in sections 43 and 44.

The Chair: Discussion?

Interjection.

The Chair: Wait a minute; the mike didn't go on. Okay, Mr Eddy.

Mr Eddy: Does that mean market value assessment is—

Mr Mills: Oh, I'd just like to correct something. In my notes here, it says there is tax increase protection set out in sections 43 and 44. I think I said there is no tax increase. I apologize for that error.

Mr Eddy: I just wondered, though, if market value assessment city-wide—that's not included in the bill as a requirement?

Mr Mills: No, we're not requiring that.

Mr Eddy: The council would decide?

Mr Mills: Yes.

The Chair: All those in favour of the government motion? Those opposed? Carried.

Ms Mathysen, section 48.

Mrs Mathysen: I move that section 48 of the bill be struck out and the following substituted:

"Compensation from London

"48(1) For 1993 to 2003, inclusive, the Minister of Municipal Affairs shall by regulation require that in the manner specified in the regulation, the city of London pay compensation to the county of Middlesex, the township of Delaware, the township of London, the township of North Dorchester, the township of West Nissouri, and a local board of any of them.

"Levy

"(2) The council of the city of London may by bylaw in the years 1993 to 2003, inclusive, before the adoption of the estimates for the year, levy rates, to raise the compensation the city is required to pay under a regulation made under subsection (1), against,

"(a) the land within the city on the 31st day of December, 1992; and

"(b) any property that changed in use or character after the 1st day of January, 1993.

"Same

"(3) For the purpose of subsection (2), "change in use or character" of a property has the meaning set out in subsection 44(3)."

The Chair: Discussion?

Mr Mills: Part of this amendment is done by the government's amendment. As far as sections (2) and (3), they're inappropriate because it limits those paying compensation to the county to those in the former city only.

Interjection.

Mr Mills: Oh, I'm sorry; wait a minute. It limits those paying compensation to the county to those in the former city. We'll get it right.

The Chair: Further discussion?

Mrs Mathysen: This is a double-edged sword for me. I am still concerned about the ultimate cost of this bill to London taxpayers, but there has to be a recognition that the townships and towns in the county of Middlesex are going to be seriously hampered by the loss of the tax base of the town of Westminster. I want there to be a recognition of the problems that this bill creates financially for all my constituents.

The Chair: All those in favour of Ms Mathysen's motion? All those opposed? Defeated. Also Liberal motion, which stated the same, defeated.

We go on to section 48, a government motion, Mr Mills.

1800

Mr Mills: I move that section 48 of the bill be struck out and the following substituted:

"Compensation from London

"48. During 1993 to 2003, inclusive, the Minister of Municipal Affairs may by regulation require that the city of London pay compensation, in the amount and manner specified in the regulation, to the county of Middlesex, the township of Delaware, the township of London, the township of North Dorchester, the township of West Nissouri, or a local board of any of them."

By way of explanation, subsections 48(1) and 48(2), as they appear in the first reading of the bill, are removed and they have been replaced with a provision enabling the minister to provide by regulation more flexibility to respond to local concerns about compensation. It allows payments by the city to be made directly to the county and local municipalities, whichever is appropriate.

Compensation paid to the county of Middlesex will be used by the county to pay the Middlesex county library board. The minister has stated that the county and affected local municipalities will receive sufficient funds to ensure that there will be no annexation-related tax increases for

five years following annexation and an additional four years where increases will be phased in.

The Chair: Thank you, Mr Mills. Discussion? Seeing no discussion, call for the vote. All those in favour of the government motion? Carried.

The Liberal motion here, subsection 49(2), Mr Eddy.

Mr Eddy: I move that subsection 49(2) of the bill be struck out and the following substituted:

"Payments to county of Middlesex

"(2) The city of London shall, on or before the 1st day of March in each year in perpetuity, pay the county of Middlesex, as compensation for the reduction in income due to the dissolution of the London-Middlesex Suburban Roads Commission, the proceeds of a rate of one mill, applied to the value of the rateable property in the city in that year.

"Regulation

"(2.1) The Minister of Municipal Affairs may by regulation prescribe a mill rate that is greater than zero for the purpose of subsection (2)."

This keeps the suburban roads commission with funding from the city of London.

Interjection.

Mr Eddy: It shouldn't have been there? Sorry: Withdraw "Regulation," at the bottom; sorry about that.

Mr Mills: We've addressed these concerns in our amendments, coming up.

The Chair: All those in favour of the Liberal motion? Those opposed? Defeated.

Government motion, section 49, Mr Mills.

Mr Mills: I move that section 49 of the bill be struck out and the following substituted:

"Payments to the county of Middlesex

"49(1) The city of London shall pay the county of Middlesex \$2,000,000 on or before the 1st day of March in each year from 1994 to 1996, inclusive.

"Idem

"(2) The city of London shall, on or before the 1st day of March in each year, pay the county of Middlesex, as compensation for the reduction in income due to the dissolution of the London-Middlesex Suburban Roads Commission, the proceeds of a rate of one mill or such other mill rate as the Minister of Municipal Affairs may prescribe, applied to the value of the rateable property in the city in that year.

"Regulation

"(3) The minister may by regulation prescribe a mill rate for the purpose of subsection (2).

"Special reserve fund

"(4) The county of Middlesex shall establish a special reserve fund designated for the capital costs of providing sewers and water lines and shall place all payments received under subsection (1) in the special reserve fund.

"Idem

"(5) The county shall not, without the approval of the Minister of Municipal Affairs,

"(a) make any payments out of the special reserve fund; or

"(b) change the designation of the special reserve fund."

By way of explanation, subsection 49(2) states that given that the county is expected to maintain suburban roads, payments to compensate for suburban roads commission payments will continue in perpetuity. This addresses a fundamental concern raised by the county. Payment is based on an actual local assessment of the city of London, and if a reassessment of the city of London occurs at a future date and the payment exceeds amounts required by the county of Middlesex for road expenditures, the minister has the authority to adjust the rate of one mill to be applied to the local assessment.

Subsection 49(4) provides for the county's use of a special reserve fund for water and sewer capital costs.

The Chair: Discussion?

Mr Eddy: I thank the parliamentary assistant for submitting this amendment. However, the one problem I have with it is under "Regulation." Realizing that the minister by regulation may prescribe a mill rate, which might be very, very low—it couldn't be zero, but it could be very low—I would rather see the requirements of the Public Transportation and Highway Improvement Act kick in. That's the system used by all other counties and separated municipalities in the province where it's a stated amount.

Of course, it's not a wide-open thing if the assessment was to increase. It's on an assessment of the separated municipality as equalized by the Minister of Transportation. There is a limiting factor there and it seems to me that's a better way to go as to what's used by all other municipalities in the Public Transportation and Highway Improvement Act.

The Chair: Any comments, Mr Mills?

Mr Mills: Just the fact that I don't agree with that philosophy.

Mr Eddy: This way, it's a regulation that may have to be changed every year by the minister. The other way, it's handled in the same way as all other local municipalities. Every county every year gets the assessment of the separated municipality as equalized by the minister of highways for suburban road purposes. I don't know whether that's applicable or not. It's a good system.

The Chair: Okay.

Mr Mills: Just a minute, Mr Chair. Can we have a comment from staff on that?

The Chair: Oh, yes, we're pleased to have it.

Dr Chinnery: I guess the concern Mr Mills brought up was that if the city of London is reassessed at a future date, the rate of one mill on its local assessment would exceed what it's paying now, which is approximately \$1 million a year. That's what that one-mill rate is to reflect, approximately \$1 million a year, what they're getting now.

The reason we are not tying the payment to the Public Transportation and Highway Improvement Act section is because for one thing we're dissolving the London-Middlesex Suburban Roads Commission. One of the provisions of section 68 of that act was that you had to have one of these suburban roads commissions.

Mr Eddy: No, that's not correct.

Dr Chinnery: I guess what I'm saying is that for the purpose of calculating this, we're looking at the total number of roads in the county and how much money it's going to cost to provide the services on those roads. So it isn't really as flexible as the section and the rate we are attempting to introduce in this section.

Mr Eddy: In response, I just point out that the speaker may want to refer to the Brantford system, where there is no suburban roads commission. There are no designated suburban roads, but the city of Brantford does, by agreement under the—well, you know about that one.

Dr Chinnery: Yes.

Mr Eddy: It's a different situation.

Dr Chinnery: It's a different situation.

Mr Mills: We are satisfied this will satisfy the fund need.

Mr Eddy: And you will attempt to satisfy that?

Mr Mills: Yes. I hope I have.

The Chair: All those in favour of the government motion? Those opposed? Carried.

Ms Mathysen, subsection 50(2.1).

Mrs Mathysen: I move that section 50 of the bill be amended by adding the following subsection after subsection (2):

"Same

"(2.1) The minister shall appoint to each committee one person to represent the interests of the residents of the former town of Westminster."

This is in response to the concern that in an urban municipality the needs and wishes of a rural and smaller population may not be suitably heard.

1810

Mr Mills: Just to comment, we can't support that amendment because it will require Westminster, which will no longer exist, to have a representative on the committee of referees.

Mr Sutherland: Can I just ask for a point of clarification? I'm trying to follow it. If I look at what section (2) says in the act, it says, "Each committee shall consist of one or more treasurers of the municipalities directly affected by the adjustment of particular assets and liabilities." Does that not in itself include Westminster, or what am I missing here?

Mr Mills: Westminster won't exist. It won't have a treasurer, so why should it have—

Mr Sutherland: So this is only for the other areas?

Mr Mills: Yes; that's right.

Mr Sutherland: I guess what I would ask for Ms Mathysen to comment on is, what areas or assets or liabilities will this committee be deciding upon that are currently with the town of Westminster?

Mrs Mathysen: The point is representation.

Mr Sutherland: But is this committee dividing up assets and liabilities of the town of Westminster or is it doing what the other municipalities that have representation on it do? That's what I need clarified regarding your amendment.

Mrs Mathysen: All the town assets—

Mr Mills: Maybe, just to clarify that, Doctor, would you like to come forward just for a minute? I hate to prolong it, but I think we need to know.

Dr Chinnery: Maybe I could just clarify that. Because the town of Westminster is in part going to the city of London, in part going to the townships of North Dorchester and Delaware, there should be a committee that will look at the transfer of all of those assets and liabilities. So there will have to be a part of the committee of referees that looks at all of that, including representatives from those municipalities.

There would be someone representing the town of Westminster because people from the town of Westminster are the only people available who know about the situation of the assets and liabilities of that municipality. Even though the town of Westminster won't exist on January 1, 1993, the city of London is not familiar with the assets and liabilities, so it's clear that we intend to appoint someone from the town of Westminster to be on the committee of referees.

Mr Sutherland: So that's implied by section (2) already, is what you're telling me?

Dr Chinnery: Yes.

Mr Sutherland: Because that's what my interpretation was, that they're an affected municipality, that they would already have someone on there. I just want to get this clear because that wasn't the same response I got from the parliamentary assistant. You're saying that someone will be there from the town?

Dr Chinnery: That is my interpretation of this section, that someone has to be there who can represent the interests of that former municipality.

Mr Mills: I'd just like to defend myself. What I said is that I had that information differently, but that is the ultimate decision.

Mr Sutherland: So they are going to be represented, then? That's the assurance given? Okay; thank you.

Mrs Mathysen: The concern has been that that's not what's been communicated in transition.

Mr Mills: I see.

Mr Sutherland: And we've got it stated here on the record that someone from the town of Westminster will be there?

Interjection.

Mr Sutherland: Great. Thank you.

Mr Mills: Even though Westminster doesn't exist.

The Chair: All those in favour of Ms Mathysen's motion? All those opposed? Defeated. Also, the Liberals had the same motion; it's defeated.

Now we go on to a government motion, subsection 50(6).

Mr Mills: I move that subsection 50(6) of the bill be amended by inserting after "may" in the third line "within thirty days of receiving it".

The addition of an appeal time from a decision of the committee of referees ensures that the decision-making process to reach a conclusion has a realistic time frame.

Thirty days represents ample time for a municipality or a board to decide whether to appeal or not.

The Chair: Discussion? All those in favour of the government motion? Three?

Mr Mills: I hope people are not getting tired, you know.

The Chair: Opposed? Carried.

Government motion, section 52.

Mr Mills: I move that section 52 of the bill be struck out and the following substituted:

"Operation of Lambeth and Glanworth libraries

"52. The London Public Library Board shall continue to operate the existing libraries in Lambeth and Glanworth until at least the 31st day of December, 1997."

By way of explanation, this provision is to allow the city of London public library board to provide library services in Glanworth and Lambeth, instead of county board with city funding. Libraries will stay open at least till the end of 1997. The London and Middlesex library boards both asked for this arrangement in public hearings held in London in September.

The Chair: Discussion?

Mrs Mathysen: I'd like to say I support this. I think that it confirms that Mr Brant created problems, rather than solutions, very often in this bill and in his report.

The Chair: Okay. All those in favour of the government motion? Opposed? Carried.

Government motion, subsection 56(1).

Mr Mills: I move that subsection 56(1) of the bill be struck out and the following substituted:

"School division boundaries

"(1) Despite any other act, the Minister of Education may, before the first day of December 1994, by order,

"(a) alter the boundaries of the school divisions of the Middlesex County Board of Education and the Board of Education for the City of London;

"(b) amalgamate the Middlesex County Board of Education and the Board of Education for the City of London; and

"(c) dissolve the Middlesex County Board of Education or the Board of Education for the City of London."

By way of explanation, this provision allows the Minister of Education greater flexibility in dealing with changes to two public school boards and, in addition to altering the boundaries, the minister now has the option to either amalgamate or dissolve the boards. The change was requested by the Minister of Education.

The Chair: Discussion? Seeing no discussion, all those in favour of the government motion? Those opposed? Carried.

Government motion, subsection 56(2).

Mr Mills: I move that subsection 56(2) of the bill be amended by adding after "employment contracts" in the seventh line "for the payment of money or transfer of real property between the Board of Education for the City of London and the Middlesex County Board of Education."

Explanation: An addition has been made to expand the regulation-making power of the Minister of Education to

also permit the transfer of money or real property between the two affected boards.

The Chair: Discussion? Seeing no discussion, all in favour of the government motion? Those opposed? Carried.

Government motion, section 57.

Mr Mills: I move that section 57 of the bill be struck out and the following substituted:

“Social services plan

“(1) The city of London shall prepare, in association with the organizations and persons responsible for or concerned with the planning and delivery of social and community services, a plan for the delivery of those services within the city.

“Adoption of plan

“(2) The city shall adopt the plan before the 1st day of January, 1995.

“Public information

“(3) The city shall ensure that, in the course of the preparation of the plan, adequate information is made available to the public and before adopting the plan, the city shall afford members of the public an opportunity to submit comments in respect of the plan up to such time as is specified by the city.

“Content of plan

“(4) The plan shall include objectives and policies for the delivery within the city of social and community services including affordable housing, arts and cultural programs, child care and other children’s services, community centres, general education programs, adult education and retraining, fire protection, police protection, health services, long-term care services, multicultural services, recreation, social assistance, transportation services for people with disabilities and other transportation services.

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“Advisory committee

“(5) The city shall establish a social planning advisory committee.

“Composition of committee

“(6) The social planning advisory committee shall include representatives from organizations and persons responsible or concerned with the planning and delivery of social and community services within the city.

“Reports of committee

“(7) The social planning advisory committee shall report on a regular basis to the council of the city and its standing committees to ensure the integration of the delivery of social and community services within the city with other municipal plans of the city, including the official plan.”

I would just like to comment on that by way of explanation. One of the major issues discussed at the public hearings in London in September was the development of a social plan by the city and the general comment surrounding the need to provide some flesh to the very general direction that is currently contained in Bill 75.

This provision reflects the issues raised at those hearings as well as the work that is taking place with stakeholders since then. The proposed amendment will replace the current section 57 with the new clause, which requires the city to prepare a social plan in association with stakeholders;

requires that the plan be adopted by January 1, 1995; ensures adequate public participation in the development of the plan; directs that the plan address such issues as affordable housing, child care, cultural programs, police and fire protection, recreation and health services among other matters, and provides for the creation, composition and the reporting of a social planning advisory committee. These provisions have been agreed to by the city and the various stakeholders involved in social issues.

The Chair: Discussion? All those in favour of the government motion? Opposed? Carried.

Mrs Mathysen: Are you ready?

The Chair: Ms Mathysen, section 57.1.

Mrs Mathysen: I would like to move the government motion as it relates to section 57.1.

I move that the bill be amended by adding the following section after section 57:

“Rural issues advisory committee, London

“57.1 The Minister of Municipal Affairs may by regulation,

“(a) establish, or require the council of the city of London to establish, a rural issues advisory committee in the city of London;

“(b) prescribe the size, composition and functions of the rural issues advisory committee;

“(c) require the city council to consult with the rural issues advisory committee before passing a bylaw pertaining to a rural issue; and

“(d) define rural issues for the purpose of this section.”

I ask members to support this because it has become clearer and clearer as time has gone on and evidenced by a meeting as late as Monday evening that the city hasn’t understood fully the need to protect the agricultural issues by giving those in the community a real voice and real power in the council of the city of London. I hope regulations coming from the minister will compel the city to give adequate protection to those rural people by virtue of this representation.

Mr Mills: I’m afraid this amendment cannot be supported in its entirety. Clause (b) of the amendment is being done in the government’s amendment, clause (d) is being done in the government amendment and, as far as clause (a) is concerned, standing committees in London are all elected officials and therefore it does not seem appropriate to have an unelected body as a standing committee. Clause (c) doesn’t seem appropriate, to have special committees of adjustment for rural areas only and, as I said, (d) is done by our amendment. The government will move an amendment but will not support this amendment.

Mr Sutherland: I just want to state for the record that certainly in the testimony we’ve heard there’s concern about the way the city has responded so far in terms of whether this committee should be an advisory committee or a standing committee.

I think the sense of it being an advisory committee is that those issues may not get dealt with that need to be dealt with or taken seriously. I want to know, if we’re opposed to it being a standing committee because they’re elected officials, how do we ensure that an advisory committee

gets a little more teeth in terms of how the council will respond to its advice?

Mr Mills: Maybe we can address those concerns in the government motion.

Mr Sutherland: I'm looking at the government motion and—

Mr Mills: I see. Let's go to clause (c): "require the city council to consult with the rural issues advisory committee before passing a bylaw pertaining to a rural issue."

The Chair: Which one did you read out, Ms Mathysen?

Mrs Mathysen: I read the government motion.

The Chair: Because I was looking at the Liberal one here and the one that was submitted by—

Mr Mills: Sorry.

The Chair: There are three of them here.

Mr Sutherland: Sorry. I didn't think you read out the government motion either.

Mrs Mathysen: I did say I was reading the government motion.

The Chair: I didn't hear. I didn't even ask for the government motion.

Mr Eddy: That's why I got so mad. She said "advisory" and I didn't—

Mr Mills: Yes, that's what—I'm sorry.

Mr Sutherland: My apologies. I thought you'd read out the other motion as well. Okay. Fair enough then.

Mrs Mathysen: We think it's lovely.

Mr Ward: Great motion.

The Chair: They're pretty close. There are just a few word changes.

Mrs Mathysen: I read it because I thought it had a better chance of passing. Fooled again.

Mr Eddy: I think I could fully support the motion moved by Ms Mathysen.

Mr Mills: I beg your pardon.

The Chair: Would you withdraw your other motion there, Ms Mathysen?

Mrs Mathysen: I will.

Mr Mills: I beg your pardon to all.

Mrs Mathysen: No, it's all right, Mr Mills. I guess I didn't emphasize "government" enough.

The Chair: Mr Eddy, any discussion on this?

Mr Eddy: Yes. I'm opposed.

The Chair: You're opposed.

Mr Mills: To your own motion?

Mr Eddy: Pardon.

Mr Mills: No, to this one.

The Chair: This is the government motion.

Mr Mills: Yes.

The Chair: All those in favour? Those opposed? Carried.

Mr Mills: I beg your pardon, Irene.

The Chair: It supersedes the other amendment, Mr Eddy.

Mr Sutherland: See, this is why we shouldn't have gone late.

The Chair: Liberal motion, section 57.2.

Mr Eddy: I move that the bill be amended by adding the following section after section 57:

"Agricultural committee

"57.2 The Minister of Municipal Affairs shall by regulation,

"(a) provide for the creation, size, composition and functions of an agricultural committee in the city of London;

"(b) require the council of the city of London before passing a bylaw pertaining to an agricultural issue to consult with the agricultural committee; and

"(c) define agricultural issues for the purpose of this section."

This establishes an agricultural committee as a standing committee of council.

Mr Mills: Can I make a comment? We won't support this amendment because we believe the rural committee should be constituted to cover agricultural issues and that two committees would be confusing since they'd deal with many of the same issues, if not exactly the same issues. I don't know why you would need two committees to deal with that.

The Chair: All those in favour of the Liberal motion? Those opposed? Defeated.

Government motion, section 57.2.

Mr Mills: I move that the bill be amended by adding the following section after section 57:

"Right to operate buses

"57.2 Despite any bylaw the city of London made under subparagraph i of paragraph 104 of section 210 of the Municipal Act and subsection 3(1) of the City of London Act, 1960-61, the right of any person to maintain and operate buses for the conveyance of passengers within the limits of the city of London in accordance with a valid operating licence issued to the person under the Public Vehicles Act on or before the 31st day of December, 1992, is not affected by this act."

The proposed amendment deals with another issue raised by private concerns at the public hearings in London: the existence of private bus operators in the area to be annexed in the city. The new section, 57.2, will be added to allow these bus operators to continue under licence after the annexation has taken place.

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Mr Sutherland: Can I just be clear? That's giving them access to all the city now?

Mr Mills: No, I don't think so.

Mr Sutherland: Okay, because that's my reading. It would say they'd have access to all the city. Could you clarify that?

Mr Gray: I think what this is saying is they can operate in accordance with their existing licences, and their

existing licences only allow them to operate within the areas that are being annexed.

Mr Mills: We're not taking away their rights to operate.

Mr Gray: So that is what is being grandfathered, because otherwise the city, the London Transit Commission, has exclusive right to operate buses within the city.

Mr Sutherland: That's what I thought and that's why I wanted to have that clarified.

Since the LTC has that authority, though, are they mandated to extend that to the entire area? If not, then there's kind of this agreement that part of the new city is LTC and part of it is these other companies?

Mr Gray: They have private legislation at the moment that gives them exclusive right within the city. When the city boundaries are expanded, that right extends to the full city, and that includes the annexed areas where these people already have operating licences. This is grandfathering those licences. If you already have a licence, you can continue, but only in that same area.

The Chair: Further discussion? Seeing none, all those in favour of the government motion? All agreed. Carried.

Liberal motion, section 57.3.

Mr Eddy: I move that the bill be amended by adding the following section after section 57:

"Joint agreements

"57.3(1) The city of London, the township of London, the township of Delaware and the town of Westminster shall enter into agreements for joint services, including joint services for water supply, sewage treatment and financing of capital improvements related to sewer and water service.

"Joint implementation committees

"(2) The councils of the county of Middlesex, the city of London, the township of Delaware, township of London and town of Westminster shall establish joint implementation committees to make recommendations with respect to the joint agreements.

"Recommendations

"(3) The joint implementation committees shall submit their recommendations for the required services to the Minister of Municipal Affairs on or before the 1st day of April, 1993.

"Order

"(4) Subject to any other act, the Lieutenant Governor in Council may, within 30 days after receiving a recommendation of a joint implementation committee and upon the recommendation of the minister, by order give effect to the recommendation."

This provides for joint servicing agreements. Every municipality has them; every municipality will have them. They're essential to the operation of any municipality.

Mr Mills: We won't be supporting this amendment because it's redundant now, because Westminster is amalgamated with London, and it's not appropriate to force the city of London to extend services. We feel that they should be negotiated rather than forced.

Mr Eddy: I'll agree with the parliamentary assistant to delete "town of Westminster."

Mr Mills: We're still left with the problem about it being inappropriate to force London, rather than negotiate. I think they should be negotiating. This says we have to.

The Chair: All those in favour of the Liberal motion? All those opposed? Defeated.

Government motion, section 60.

Mr Mills: I move that section 60 of the bill be struck out and the following substituted:

"Commencement

"60(1) This act, except as provided in subsections (2), (3) and (4), comes into force on the day it receives royal assent.

"Same

"(2) Sections 1, 2, 3 to 6, 8 to 45, 47 to 49 and 51 to 59 come into force on the 1st day of January, 1993.

"Same

"(3) Section"—

Mr Ward: On a point of order, Mr Chair: Are there many remaining amendments? Mr Eddy's amendments are gone now, right?

Mr Mills: There's only one more.

"(3) Section 46 comes into force on the 1st day of January, 1994.

"(4) Section 7 comes into force on the 1st day of December, 1994."

These are technical amendments which change the section numbers for the coming into force.

The Chair: Any discussion? There being none, all in favour of the government motion? Carried.

We have a Liberal motion, we have Mrs Mathysen and a government motion.

Mr Eddy: Mine's withdrawn.

The Chair: Yours is withdrawn, and they're out of order.

Mr Mills: I still need ours.

The Chair: Okay. They're out of order.

Mr Mills: Oh, I see. We're going to go through the bill.

The Chair: Okay. We have a Liberal motion here, schedules 2, 4, 5, 6, 7—

Mr Eddy: Withdrawn.

The Chair: Withdrawn. Okay. Liberal motion, schedules 3, 8 and 9.

Mr Eddy: Withdrawn.

The Chair: Okay. Liberal motion, schedule 1.

Mr Eddy: Withdrawn.

The Chair: Okay. That's all the amendments.

Mrs Mathysen: Before we end, I'd like to ask a few questions for the record. I'll be brief. I would like clarification. On October 29, 1992, the London Chamber of Commerce testified before this committee that in July of 1991 the London Chamber of Commerce provided John Brant, arbitrator, a position paper outlining the principles necessary in reaching a final boundary adjustment solution. I would like to ask why the chamber of commerce consulted with John Brant in July of 1991 when he wasn't appointed until January of 1992.

Second, there have been a number of petitions submitted to the Legislative Assembly. How many people have signed those petitions, in terms of the numbers from London and Middlesex?

Mr Mills: I'd just like to say to the first question that the ministry has absolutely no idea of why that is. In so far as the second question, we don't know that either.

Mrs Mathysen: When can I expect that the ministry will investigate that and get back to me?

Mr Mills: It's kind of difficult to know if we don't know.

The Chair: Speak into the mike.

Mr Mills: The first question, if we have no idea of how it happened, I don't know how we can look at it and get back and find out how it happened if we don't know how it happened.

Mrs Mathysen: Perhaps you could consult with the chamber of commerce.

The Chair: Do your best.

Mr Mills: Yes, we'll ask the chamber. We'll see what we can do.

Mrs Mathysen: Or perhaps Mr Brant; I'm sure he hasn't left town yet.

The Chair: Okay. We're going to be going clause-by-clause.

Sections 1 through 4. Shall they carry? Carried.

Shall section 5, as amended in the bill, carry? Carried.

Shall sections 6 and 7 carry? Carried.

Shall sections 8, 9 and 10, as amended, carry? Carried.

Shall section 11 carry? Carried.

Section 12, as amended? Carried.

Section 13, as amended? Carried.

Section 14? Carried.

Section 15, as amended? Carried.

Sections 16 through 18? Carried.

Section 19, as amended? Carried.

Section 20? Carried.

Section 21, as amended? Carried.

Section 22? Carried.

Section 23? Carried.

Section 24, as amended? Carried.

Section 25? Carried.

Section 26, as amended? Carried.

Section 27? Carried.

Section 28? Carried.

Sections 29, 30, 31, 32 and 33, as amended? Carried.

Section 34 to be struck out? Agreed.

Section 35? Carried.

Section 36, as amended? Carried.

Section 37 to be struck out? Agreed.

Section 38 to be struck out? Agreed.

Section 39, as amended? Carried.

Section 40? Carried.

Sections 41, 42, 43 and 44, as amended? Carried.

Section 45? Carried.

Sections 46, 47, 48, 49 and 50, as amended? Carried.

Section 51? Carried.

Section 52, as amended? Carried.

Sections 53, 54 and 55? Carried.

Sections 56 and 57, as amended? Carried.

Sections 58 and 59? Carried.

Section 60, as amended? Carried.

Section 61? Carried.

Schedules 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 to be struck out? Agreed.

Shall the bill, as amended, carry? Carried.

Shall the title carry? Carried.

Shall I report the bill to the House? Agreed.

This committee is adjourned.

The committee adjourned at 1842.

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***Vice-Chair / Vice-Président:** Sutherland, Kimble (Oxford ND)

Caplan, Elinor (Oriole L)

Carr, Gary (Oakville South/-Sud PC)

Christopherson, David (Hamilton Centre ND)

Jamison, Norm (Norfolk ND)

Kwinter, Monte (Wilson Heights L)

Phillips, Gerry (Scarborough-Agincourt L)

Sterling, Norman W. (Carleton PC)

***Ward, Brad (Brantford ND)**

Ward, Margery (Don Mills ND)

Wiseman, Jim (Durham West/-Ouest ND)

Substitutions / Membres remplaçants:

*Cooper, Mike (Kitchener-Wilmot ND) for Mr Ward

*Cunningham, Dianne (London North/-Nord PC) for Mr Sterling

*Eddy, Ron (Brant-Haldimand L) for Mr Phillips

*Fawcett, Joan M. (Northumberland L) for Mrs Caplan

*Grandmaître, Bernard (Ottawa East/-Est L) for Mr Kwinter

*Mathyssen, Irene (Middlesex ND) for Mr Jamison

*Mills, Gordon (Durham East/-Est ND) for Mr Wiseman

*Murdoch, Bill (Grey PC) for Mr Carr

*In attendance / présents

Also taking part / Autres participants et participantes:

Chinnery, Dr Kathleen M. Chinnery, senior economist, Ministry of Municipal Affairs

Gray, Scott D., solicitor, Ministry of Municipal Affairs

Mills, Gordon, parliamentary assistant to the Minister of Municipal Affairs

Neumann, Mary, policy assistant to the Minister of Municipal Affairs

Tilson, David (Dufferin-Peel PC)

Clerk / Greffier: Decker, Todd

Staff / Personnel: Klein, Susan, legislative counsel

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ISSN 1180-4386

Legislative Assembly of Ontario

Second Intersession, 35th Parliament

Official Report of Debates (Hansard)

Monday 11 January 1993

**Standing committee on
finance and economic affairs**

Pre-budget consultations

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Journal des débats (Hansard)

Lundi 11 janvier 1993

**Comité permanent des finances
et des affaires économiques**

Consultations prébudgétaires



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Monday 11 January 1993

The committee met at 1405 in committee room 1.

PRE-BUDGET CONSULTATIONS

The Chair (Mr Ron Hansen): I call the standing committee on finance and economic affairs to order. The first order of business we have is the report of the subcommittee:

"Your subcommittee met on Tuesday 15 December 1992 and recommends the following with respect to pre-budget consultations for 1993.

"1. The Treasurer and officials from the Ministry of Treasury and Economics shall be invited to brief the committee on the Ontario economy and finances. Forecasters from the private sector who have previously assisted the committee in this role shall be invited to brief the committee on prospects and forecasts for the Ontario economy. Principal transfer recipients from the municipalities, universities/colleges, schools and hospital sectors (MUSH) who appeared last year shall also be invited to appear before the committee.

"2. The clerk pro tem of the committee shall send a letter of invitation to all individuals, groups and organizations who appeared last year.

"3. The Treasurer and officials from the Ministry of Treasury and Economics shall be allotted ½ day for their briefing. Forecasters and MUSH sector groups shall be allotted 45 and 30 minutes respectively per presentation.

"4. The clerk pro tem of the committee shall place an advertisement in all daily newspapers in Ontario in early January 1993 inviting the public to participate in the pre-budget hearings.

"5. The subcommittee agreed to meet again after the deadline for requests to appear for an oral presentation to review the list of those who requested to appear and to select those groups and individuals who would be invited to make oral presentations."

Can I have someone to move it? Mr Carr?

Mr Gary Carr (Oakville South): Yes, I move the adoption of that.

The Chair: Any discussion? All in favour? All opposed? Carried.

Also what we have is the budget for the committee. Last year our budget was \$217,000. This year I have the budget—has everybody got the budget in front of him?—and it comes to \$150,652. The details are on the following pages. This takes in Bill 164 for travelling also, so if you see the travelling expenses, that's for travelling for Bill 164. Can I have someone move the budget for the committee? Mr Carr?

Mr Carr: Yes, I move that the budget in the amount of \$150,652 be approved and that the Chair be authorized to present the budget to the Board of Internal Economy.

The Chair: Thank you. Any discussion? All in favour? All opposed? It's carried.

We'll start our hearings with the first group. I'd like to welcome all the committee members back here. Maybe just for the presenters who are here now, I could start off with Mr

Johnson, your name and your position in the government. You're on my right, but on the left to the people down there.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Thank you. Paul Johnson. I'm the parliamentary assistant to Floyd Laughren, the Treasurer of Ontario, and MPP for Prince Edward-Lennox-South Hastings.

Mr Brad Ward (Brantford): Brad Ward, MPP for Brantford, parliamentary assistant for Industry, Trade and Technology.

Ms Anne Swarbrick (Scarborough West): Anne Swarbrick, MPP for Scarborough West.

Ms Margaret H. Harrington (Niagara Falls): I'm Margaret Harrington. I represent the city of Niagara Falls and I'm the parliamentary assistant to the Minister of Housing.

Hon Shirley Coppen (Minister without Portfolio): Shirley Coppen, MPP, Niagara South, chief government whip.

Mr George Mammoliti (Yorkview): George Mammoliti, MPP for Yorkview, parliamentary assistant to the Minister of Correctional Services.

Mr Monte Kwinter (Wilson Heights): Monte Kwinter, member for Wilson Heights and the Liberal critic for Industry, Trade and Technology.

Mr Gerry Phillips (Scarborough-Agincourt): Gerry Phillips, Scarborough-Agincourt.

Mr Sean G. Conway (Renfrew North): Sean Conway, Renfrew North.

Mr Norman W. Sterling (Carleton): Norm Sterling, Carleton.

Mr Carr: Gary Carr from Oakville South.

Mr Michael D. Harris (Nipissing): Mike Harris from Nipissing.

Mr Sterling: Before we begin, Mr Chairman, I was wondering if you could request that tomorrow when we have the Treasurer in front of us, because of the interest by the media in this, we seek to meet in the Amethyst Room rather than this room and perhaps switch with the public accounts committee. Perhaps if you could make that request this afternoon, then we could do it. I think the public might be interested in some of the presenters tomorrow morning as well and they would have the opportunity to view and hear the presenters.

Mr Conway: Shameless pander to the fourth estate.

The Chair: Is everybody in favour of that? Nobody is opposed? Okay. We'll see about transferring tomorrow to the Amethyst Room.

TORONTO DOMINION BANK

The Chair: The first presenter will be the Toronto Dominion Bank, Mr Peter Drake and Teresa Chandler. Would you come forward. Welcome to the standing committee on finance

and economic affairs. You have 45 minutes for your presentation, and at the end you could leave some time for questions of the committee. You may proceed.

Mr Peter Drake: I intend to speak for just a few moments on the framework, if you will, for the outlook for Ontario, Canada, some of the international issues, and then my colleague Teresa Chandler will speak specifically to economic outlook issues concerning the economy of Ontario.

Taking this in no particular order, one of the first things we're looking at in 1993 is expecting gradually falling interest rates throughout the year. To be a little more specific, we expect that three-month treasury bills may fall about 120 basis points from the first quarter of 1993 to the first quarter of 1994. Rates may stabilize or even rise a little in 1994 as the Bank of Canada reacts to the slight increase expected in inflation. Throughout all of this period, if the Canadian dollar suddenly weakens in foreign exchange markets, then short-term rates will rise just as they did in the fall of 1992.

A second thing that we are expecting is a more stable Canadian dollar, trading between 77 and 78 cents US. The Canadian dollar seems to have reached a realistic level, but more turmoil in world foreign exchange markets or political uncertainty in Canada could result in more volatility.

We expect slightly higher but still low inflation. The consumer price index for Canada is forecast to rise by 2.5% in 1993. This is higher than the 1.5% recorded in 1992, but it is still a very low rate of inflation.

We expect rising employment but little decline in the Canadian unemployment rate until late in 1993. Employment will rise only slowly as employers strive to maintain hard-won reductions in their cost structures. The unemployment rate will remain high because people who dropped out of the labour force during the recession will come back in. Because the national rate won't begin to decline until later in the year, the average unemployment rate for Canada will actually rise from 11.3% in 1992 to 11.5% this year.

We expect expansion in the United States economy. Growth has strengthened in the United States economy and economic output is now above its pre-recession level. Real growth in US gross domestic product in 1993 is forecast at 3%. We also expect continued weakness in the Japanese economy and only modest improvement in Europe.

We are looking for rising Canadian exports to the United States. During the recession, Canadian firms lowered their cost structures and increased their competitiveness vis-à-vis firms in the United States. The more than 10% decline in the value of the Canadian dollar since late 1991 provides an added bonus in making Canadian exports competitive in US markets. Exports to non-US markets may be weak and imports to Canada will rise more rapidly as the Canadian economy improves, but Canada's merchandise trade surplus will widen.

We are looking for increased consumer spending. Consumer confidence will improve and consumers will be more willing to spend. Growth in consumer spending won't be nearly as strong as in the 1980s but at a forecast rate of 1.9% this year, it will be twice as rapid as in 1992.

We expect continued spending restraint by governments. The recession reduced tax revenues to most governments, which made their already large deficits even larger. Some

provincial governments may raise taxes in 1993, but for most governments tax increases are not a viable way to cut deficits in the current economic environment. The only course left is for governments to cut or at least restrain their spending.

We expect some increase in business inventories. Businesses now keep smaller inventories than they used to, and they keep much tighter control over the inventories they do keep. The result is that the Canadian economy no longer experiences large swings in business inventories. Nevertheless, inventories declined significantly in 1992 and inventory-to-sales ratios are very low. Therefore, there should be some inventory rebuilding in 1993, which will contribute to economic growth.

We expect some increase in business investment in machinery and equipment. Even though corporation profits are still only half of their pre-recession peak, businesses will invest heavily in new machinery and equipment in 1993 because these investments will improve their competitiveness.

Investment in non-residential construction will continue to be very weak because this market is oversupplied. We expect an increase in housing starts and residential construction activity. Housing starts in Canada will increase from just under 170,000 units in 1992 to about 180,000 units in 1993. Lower mortgage rates and improved housing affordability will help spur housing activity.

We expect increased economic growth in Canada. Real gross domestic product, the widest measure of economic output, will grow by about 3% in 1993. That is much lower than the growth rates of past recoveries but well ahead of the estimated 1.2% growth in 1992.

Finally, we expect ratification of the North American free trade agreement. The United States has insisted on some changes in the rules governing environmental and labour standards, but it appears to us that NAFTA will be ratified by the US, Mexico and Canada. If it is ratified, it will be implemented at the beginning of 1994.

Those are my remarks, Mr Chairman, and now I will turn to my colleague Teresa Chandler.

Ms Teresa Chandler: As you all know, the 1990s have not been kind to Ontario so far. Real GDP in Ontario contracted in both 1990 and 1991 and grew by only 1.2% in 1992. If we look at the year as a whole, it's pretty hard to see the good news; it looks pretty bleak, with employment lower in 1991 than in 1990. But if we compare where we are now to where we were a year ago, things look a little brighter.

In Ontario, there was a net increase in jobs in December 1992 of 3,000 workers, compared to December 1991, and employment, as usual, was one of the last indicators to move into the black. The evidence is growing that a sustainable recovery is under way in Ontario. There is at least some good news in retail trade, housing and manufacturing.

We could characterize the first few years of the 1990s as a restructuring phase in Ontario, and now, although restructuring will still go on, it appears that the most painful part is over. In the next few years, Ontario will begin to get some of the benefits of this difficult restructuring and the economy will strengthen.

In 1993, as Mr Drake mentioned, the US and Canadian economies will strengthen, growing by about 3%. We expect Ontario to grow by 3.2% in 1993, helped by the pickup in the

US economy. By 1994 growth is expected to pick up in Ontario to 4.3%. This is not a return of the glory days in Ontario of the late 1980s, but it is strong enough growth to accommodate a steady increase in jobs in the province. As we start out 1993, the main concerns that people have are about jobs, the retail sector and the construction and manufacturing sectors.

Before we get into the detailed outlook, I'd like to go into where we've been and where we are right now. Let's start with the job market. Obviously, Ontario has been hit much harder this time around during the recession than in 1981-82. Peak to trough in 1981-82 jobs lost in Canada amounted to 612,000, while in Ontario job losses were 205,000. That means that one third of the jobs lost last time around were in Ontario.

More recently, the peak-to-trough change in employment in Canada between April 1990 and April 1992 was 476,000 jobs; in Ontario, 285,000 jobs were lost. So a full 60% of the jobs lost this time around were in Ontario. Consumers have been afraid not only because of the sheer number of jobs lost but because job losses continued for so long, and people who had jobs began to worry that they would be next.

Looking closer at layoffs in Ontario last year—and these are data from the Ministry of Labour—conditions got worse overall. Layoffs rose by 6.1% compared to 1991, but they were still lower than levels in 1990. There was a sharp jump in the number of complete closures of operations last year. Overall, about 60% of the layoffs that occurred were the result of complete shutdowns of operations. This is very different than in the early 1980s, when reduced operations accounted for more than half of the layoffs in Ontario. The layoffs were concentrated in manufacturing and retail trade.

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But if we look at where we were at the end of 1992 compared to the end of 1991, the picture does not look quite as bleak. There's been a net gain of 42,000 jobs between April and December 1992 in Ontario. If we look at employment by industry between December 1991 and December 1992, the gains were in community, business, personal services, construction and agriculture. Although job losses continued in manufacturing and trade, they were at a slower pace than a year ago.

Let's turn to the retail sector. I mentioned that consumers were afraid of losing their jobs. Many have also been worried about the value of their house falling, and that's especially true in Toronto. Whatever the reason, when consumers are uncertain they don't spend as much. That's what happened last year. Retail sales grew slightly, by just over 1% in Ontario last year. In the second half of 1992 there have been some strong gains in retail sales, and year-over-year growth reached almost 3% in October 1992 in Ontario. The early indications are that Christmas sales were quite good, so the news overall is improving in the retail sector.

Now, if we turn to the construction sector, obviously the non-residential market was in severe trouble last year. Commercial and industrial building activity fell sharply in Ontario. In the downtown Toronto market, office vacancy rates, which were as low as 3.7% in 1987, climbed to 17% by the end of last year.

In the housing market there's some better news. There was quite a bit of improvement last year, but there's certainly

much room for more strength in the coming months, as low mortgage rates and recent job gains boost consumer confidence. The December housing starts, which came out today, show that starts in December were at a rate of 178,000 units for Canada, which was good news and an improvement compared to October and November.

If we look at housing starts in Ontario, they rose from about 53,000 units in 1991 to 56,000 units last year. But on the downside, if we exclude socially assisted units from this number, housing starts in Ontario actually declined in 1992. That's based on January-to-October data.

In the resale market there were declines in house prices in most areas of Ontario. Toronto's prices fell for the third year in a row. Now Vancouver is the most expensive housing market in the country; it replaced Toronto last year.

There was an increase in home sales, even in the Toronto market. Home buyers were attracted by the RRSP and down payment incentives, low mortgage rates and, in some areas, declines in house prices. Sales were up by 9.3% in Toronto as the market rebounded at the end of the year. The fundamentals are there for a recovery in the housing market in 1993.

If we turn to manufacturing, if we look at only job losses, we get quite a bleak perspective on the manufacturing sector last year. The number of manufacturing jobs was down by close to 50,000, on average, in 1992, but the pace of job losses has slowed. It's also true that competitiveness is improving and that exports have risen.

Let's look at competitiveness first. First of all, to get at the problem, manufacturing in Ontario has clearly undergone major restructuring. To see why, we have to glance back at the 1980s. During the second half of the 1980s, Canadian productivity growth was very poor, especially compared to productivity growth in the United States. By 1990 many Canadian manufacturing companies found themselves to be at a cost disadvantage. The steady rise in the Canadian dollar, combined with cuts in tariffs under the FTA, added to the pressure on Canadian manufacturers.

Let's look at what companies have done. Since the start of the recession, there has been a major change in the way companies are doing business. What companies have done is cut costs and employment in order to become more competitive. Restructuring has meant that many companies are doing the same job with fewer workers and resources.

What has this meant? In 1992 productivity grew by about 4% in manufacturing compared to the average productivity growth of under 1% per year between 1985 and 1990, and wage growth moderated substantially in 1992. At the same time, the Canadian dollar fell from a peak of close to 90 cents US in late 1991 and is now hovering around 78 cents. We've got stronger productivity growth, slower wage growth and a lower Canadian dollar. These three make Canadian exports more competitive.

We've already seen the benefits of that. In 1992 we had very strong export growth in Canada and Ontario. Canadian exports were up by 9.2% in the year to September, and Ontario's exports were up even more, by 14%. The areas that grew the strongest were transportation equipment, rubber and plastic products, electrical equipment, paper, iron and steel furniture. All these industries recorded gains of over 10% in the first nine months of 1992.

This restructuring process is a very difficult one, but by making these changes companies are becoming more competitive, which is necessary for survival in the 1990s.

To sum up the good news, employment's on its way back up, jobs in Ontario are up by 42,000 since April, retail sales are starting to grow, there's some good news from housing markets and exports continue to climb.

Let's turn to the outlook for Ontario. The recovery appears to be well under way. The year 1992 represented a year of change for the economy, change that's been very painful. The adjustments have not simply been companies laying off people; employees have to work harder and companies have to do more with fewer workers. Real GDP growth in Ontario is forecast to rise by 3.2% in 1993 and 4.3% in 1994, above the national average.

I'd like to go over a few signs that point to a strong recovery in the Ontario economy this year. The first, as Peter went into, was the stronger US economy. The other signs are that the dollar is lower and there's improved productivity and competitiveness. Since Ontario sends 88% of its exports to the United States, the impact of stronger spending in the US will be felt right away in Ontario.

There will be a boost to confidence and to spending in the next few months because of recent increases in jobs in Ontario. Housing starts are forecast to rise in Ontario to 65,500 units compared to 56,000 units in 1992. The recovery in non-residential construction activity will be more gradual; it will continue to lag behind the rest of the economy. High office vacancy rates will stay with us for some time.

As Ontario companies benefit from recent cost-cutting and gains in productivity, these gains are expected to be mirrored by an improvement in the job market, but this improvement will be gradual. In 1993 employment in Ontario was forecast to grow by 1%, but the picture will look brighter in 1994, with employment growth recovering to 1.7%. High unemployment rates are expected to stay with us for a few years. Unemployment rates in Ontario are forecast to rise to 11% on average, from 10.8% in 1992, but they will start to decline slightly, to 10.7% on average in 1994.

Although a return of the rabid growth of 1987-88 is not likely in the short term, we expect a significant recovery in the Ontario economy over the next few years. Of course Ontario still has the advantage of its location, close to major US markets, as well as other advantages, such as the education and skills of its labour force. Ontario remains the financial and commercial centre of the country, and as prospects in both Canada and the US improve Ontario will prosper.

That concludes the formal part of our presentation. We'd be happy to answer your questions.

Mr Kwinter: I have a question for Mr Drake. I'd just like your comment. In your comments you suggest that the Canadian dollar is trading at about 77 to 78 cents and expected to remain there for the coming year. The exports we make are primarily in the primary section, with raw materials and some secondary manufacturing, and our imports are primarily consumer goods. With the change in the value of the dollar from nearly 90 cents at the beginning of this year to the point where it's 77 or 78 cents, how is that going to impact on the rate of inflation?

Mr Drake: We are inclined to think that it will have relatively little impact on the rate of inflation. That is a much different situation than would have been the case two or three years ago, when the economy was booming. I think the reason it will have relatively little impact is that there is still a great deal of slack in the economy.

There is sufficient slack in the economy that it simply will not support significant price increases. The economic situation itself will simply prevent the decline in the dollar from having very much impact on inflation. It'll have a little—as I said, we expect inflation to be in the range of 2.5% this year, maybe even 2.7% next year—but I think it will have far less than it would have had, for example, two or three years ago.

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Mr Phillips: I don't know whether you've had a chance to go over the government's economic forecasts, but you are slightly more pessimistic than it is on virtually every front. I think you're predicting a gross domestic product increase of 3.2% and they're predicting 3.8%. You're predicting that the unemployment rate actually will rise and they're predicting it will drop. I think you're predicting housing starts at 65,000 and they're predicting 71,000. Is there a reason why they may be somewhat more optimistic than you people would be, or are those statistically insignificant differences?

Mr Drake: I don't think there are huge differences in the forecast. Certainly I haven't and I don't think Teresa has had a chance to sit down and go through them with a fine-tooth comb. I would think the best answer is they're not hugely significant differences. Teresa, do you want to add anything?

Ms Chandler: The one thing I mentioned, the area where the most importance difference is in the labour market. We do have a significantly slower employment growth forecast than the Ontario government. I guess it reflects our concerns about the restructuring that's going on and that it may continue somewhat. We have growth of 3.2% in Ontario, and with a growth in jobs of about 1%, that implies further productivity gains in the next year which we expect to occur.

Mr Phillips: So your judgement would be on the employment side. I see they're predicting maybe 50,000 to 60,000 more jobs than you are. You think they may be somewhat optimistic on the job creation front?

Ms Chandler: I'm sure it's a little too early to tell right now. Right now, that's our best guess, yes.

The Chair: Is the Liberal caucus finished?

Mr Phillips: I had some additional questions.

The Chair: Six minutes for each caucus.

Mr Phillips: Have you done any forecasting on things like corporate profits and personal income increases? I'm anxious to get comparatives versus what we're looking at from the government estimates right now. Have you any feeling on those things?

Mr Drake: In the handout we gave out there are some forecasts. These of course are for Canada.

Mr Phillips: I'm looking at Ontario. Have you had any?

Mr Drake: I don't think we've forecast those particular variables for Ontario, but they are on the second page of the

handout we gave you for Canada. For example, in pre-tax corporate profits we're expecting an increase of about 21% this year.

Mr Phillips: For 1993?

Mr Drake: For 1993, yes. That's up significantly from the 8.5% increase in 1992. Of course those two numbers are a remarkable turnaround from the very severe declines in 1990 and 1991.

Mr Phillips: Would there be a reason why in Ontario the government would be predicting a 39% increase in pre-tax corporate profits when you're predicting a somewhat lower number nationally?

Mr Drake: I think one wants to be very careful about commenting on someone else's forecast unless one is very familiar with the assumptions that have gone into it. I don't think there's anything meaningful that I could say about it.

Mr Phillips: Would Ontario corporations or corporate profits in Ontario likely be better than the national average in your feeling?

Mr Drake: I would think that Ontario is certainly going to participate in the recovery, just as Teresa said. Certainly this province—this is no news to anybody here—got hit very hard in the recession and corporate profits were absolutely no exception to that. So to the extent that the province recovers, I would certainly expect that profits would do significantly better.

Mr Phillips: So it's possible we could be looking at a 39% increase here when you've got a national number at 21%.

Mr Drake: I don't want to comment on the statistical differences, but it is certainly possible to have a difference.

The Chair: Mr Harris, you have six minutes.

Mr Harris: Thank you very much, Mr Chairman. I have a couple of questions, Teresa, on some of the statistics. The housing starts are projected at 65,000. How many of those housing starts are government-assisted, non-profit, co-op etc versus private sector? Do you have that breakdown?

Ms Chandler: We do not.

Mr Harris: You broke it down, though, for last year.

Ms Chandler: The historical numbers, yes. We obtain that information, but we don't for the forecast.

Mr Harris: If you projected last year's versus this year's, what would that be? Do you know?

Ms Chandler: We do not have a forecast for that.

Mr Harris: Teresa, as well, you talked about the economy picking up next year. The factors you gave for that, particularly for the province of Ontario, were that the US is going to recover, that we're tied to its economy—I'm paraphrasing a little; correct me if I'm wrong—and that we can't help but succeed because of our geography and the built-in infrastructure of an educated workforce, that we are the financial centre and we don't see them moving out over the next year, and so if economic activity picks up in the United States, Ontario will do a little better in spite of itself. Am I paraphrasing you wrongly there?

Mr Drake: I would phrase it just a little bit differently. There's no question the US has a very important influence.

Mr Harris: I appreciate you answering, but I didn't hear one thing that Ontario is doing. I heard about the US picking up. I heard that we're the financial centre. I heard about our educated workforce. I heard about our geography. Is there something else we're doing?

Mr Drake: There is no question that the recession this province and this country went through in 1990-91 was a very painful recession. Part of the pain was the restructuring Teresa talked about. Firms faced a very difficult choice. They either became more competitive or they went out of business. As you know, a number of them, a very large number, did go out of business.

The result of lowering cost structures, the result of making some investments in machinery and equipment, is that our cost structures are lower and our productivity is up. We have had, as I mentioned, the added bonus of the external value of the Canadian dollar falling. All of that has improved competitiveness in the country and in the province very significantly. It should allow us to get terrific leverage off the US expansion. There is certainly something that has happened here.

Mr Harris: So our disasters of 1992, if you like, in job losses will translate into leaner, more efficient, more competitive companies coming into 1993?

Mr Drake: I think that's true.

Mr Harris: In the early 1980s, we were in a recession. Unemployment was at about the same rate. The job losses in Ontario were about 33% of the country's. In the early 1990s, 10 years later, we're in a recession. Of the job losses across the country now, 60% are Ontario jobs lost. Do you have any explanation of why we're being hit more than doubly hard than any other part of the country?

Ms Chandler: I bring that back again to the discussion of competitiveness. It appeared that in the late 1980s it was particularly the case that in central Canada competitiveness was lagging behind. To do a bit of a comparison, following the previous recession there wasn't as much of the structural adjustment in Canada as went on in the United States generally.

Mr Harris: But I mean recession versus recession now, not recovery versus recovery.

Ms Chandler: Okay. Since the recession started, we're looking at further adjustments that have gone well beyond the extent of the last one. The recession started in 1990 and we're still in the restructuring phase. My point is simply that the restructuring has gone on for a long time. This recession has been longer than the last one, and I think that's part of it.

Mr Harris: But you told me that Ontario is losing 60% of the jobs in this recession. In the recession of the early 1980s, we lost 33% of the jobs that Canada lost. Why are we being hit so much harder now than in the early 1980s? That's the question.

Mr Drake: Part of the explanation is that a number of things were going on in 1990-91. We had a recession. Everybody knows why it happened. It was induced by the high interest rates. It was an inflation-fighting recession. But there were other things going on. This country, and especially this province, was adjusting to the Canada-US free trade agreement and it was a significant adjustment. We knew it would be significant in manufacturing. I don't think many of us in

the economics profession realized quite how significant it would be on the retail side, but it proved to be very significant there. That was another very important thing.

Mr Harris: So other provinces adjusted better than we did?

Mr Drake: No. I think Ontario had the big adjustment to make in manufacturing. One doesn't have to read much Canadian economic history to know that over the years manufacturing has been one of the protected sectors, and the free trade agreement changed that very significantly, so that was an issue. Another thing that was there was tax reform; that was another issue. It took people a while to get used to the goods and services tax. There are a number of things that made the 1990-91 recession different than the 1981-82 recession.

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Mr Harris: I'll just ask one other quick question. You don't have any recommendations here for the Treasurer. I don't know whether that's because he didn't listen the last few times anybody gave him recommendations or because you thought it was falling on deaf ears. Perhaps I could ask you this: Bill Clinton in the United States—you've talked about economic recovery there—has said we need some stimulation of the economy. He's proposing to do it by tax cuts for the middle class. Most have said there is a need for stimulation in the economy in Canada as well. Would you recommend that it be by way of a tax cut or would you recommend it be by way of a tax hike, as Floyd Laughren has suggested here? Do you have a recommendation for the Treasurer?

Mr Drake: In general, we are going to be very careful not to tell any government how to do its job. I guess in general—

Mr Harris: But do you have a recommendation for them, or why are you here?

Mr Drake: We're here partly to give our view on the outlook, and I think the policy recommendation I would give to this government, and I would probably give the same policy recommendation to virtually any government in Canada at the moment, is this: We certainly seem to have a recovery coming on. It is not a strong recovery by historical standards and certainly there are some parts of the economy that are pretty fragile. I think I would say to any government that when you're making your policies, you're going to have to think about the fact that the economy is still fragile. You're going to have to think about the fact that competitiveness is not just an issue which has been with us for the past two or three years and which is now going to go away. As far as I can tell, it's going to be with us for a number of years.

You're going to have to think about the size of the government deficit. You're going to have to think about financial markets and how they're going to react. You're going to have to think about the fact that financial markets look not only at the size of a government deficit but at the credibility of a fiscal plan. As the elected representatives, the government is going to have to take all of those factors into consideration and make what I'm sure are going to be some very difficult decisions.

Mr Harris: But no advice.

The Chair: I'm going to have to go on to Mr Ward.

Mr Ward: Thanks for your presentation. When you attempt to forecast future projections, it's a very fine art, and obviously we won't know how accurate the forecasts are until next year when we're perhaps sitting around this same table.

This is my third go-around participating in the finance committee and I've noticed, the last two times anyway, that the forecasts made by the banks and by the economists in general have been overly optimistic, to say the least. The projections from an economic standpoint have not come true.

I look at your forecasts for 1993, and your one example is that the real gross domestic product growth is projected to be 3.2%, which I would like to see happen because that's good economic news. But based on what I heard the last two times, I'm not overly optimistic that we can hit those targets. How confident do you feel? I'm not saying something catastrophic could happen, like the destabilization of Europe or whatever, but how confident are you that our economy, both in the province and nationally, can achieve these forecasts, based on the last two years?

Mr Drake: Your comments about the accuracy of the forecasts are absolutely right. It's one of the humbling things about being an economist. I think we are a little more confident, perhaps, than we were and I guess there are two or three reasons.

First of all, certainly we are seeing the US recovery. The US had at least one, if not two false starts getting on its recovery. I think the evidence that the US is on its way is much stronger than it was a year ago, or than it was when some of those other false starts were made. I think that's one thing.

Certainly, the numbers as far as increased competitiveness is concerned seem to be pretty firm and that's something we can build on. The fact of the dollar being down is, I think, very important. One should always remember that a depreciation in a currency provides only a one-time benefit. It's not something you can continue to rely on, but I don't think it could have come at a better time.

There are a number of other economic statistics that have come in that suggest things are much closer to firming up. There are still some things that are very elusive. Consumer confidence is one of them. Consumers, I have always believed, are much smarter than most people gave them credit for. They may not have degrees in business and they may not have degrees in economics, but their instincts are not far off the mark. One of the reasons consumers have been so reluctant to spend is that they have been worried about job security. I think everybody in Ontario knows somebody who lost his job through no fault of his own, and that tends to make people tighten up. We think we are seeing some indication that consumers are more confident than they were, but I grant you that consumer confidence is elusive.

Mr Ward: It's an intangible.

Mr Drake: It is, but we think we are seeing some indications. Admitting there is risk every time you make a forecast, I think we feel rather more confident about this forecast than we would have been justified in being, say, a year ago or two years ago.

Mr Ward: This is based on the economic indicators that have occurred in the last quarter or the last half year—

Mr Drake: Both.

Mr Ward: —to give this renewed confidence in your own forecast, let alone others.

Mr Drake: That's right.

Ms Harrington: I would like to pursue a little further some of the comments you made, which I found quite interesting. Normally, we think of the 1980s as the good times and now we're in the bad times. But what you actually stated, and I'd just like to clarify that this was your intent, was that during the 1980s productivity was poor, that in fact it was about 1% growth during the 1980s annually, whereas now it is 2.5% in, I think, last year or the year before. What I'd like to possibly conclude from that is that what we are now doing is laying a solid base for a strong, sound economy, not the artificial type of situation that we had in the 1980s.

Mr Drake: I think that's true. We are not expecting to see the same strength in real economic growth, but neither are we expecting to see the same inflation. Simply to paraphrase, I guess, what you're saying, if we could see a number of years of steady growth that's 3% or 4% and low inflation, I think we'd probably all take it and be grateful after what we've been through. Teresa, do you want to add to that?

Ms Harrington: You would say that the 1980s were artificial, that the economy was an artificial high.

Ms Chandler: I'd just like to clarify the numbers you were citing on productivity. When we look at productivity and we look at manufacturing productivity, the period of the problem was the 1985 to 1990 period, when productivity growth was below 1% a year, and now in manufacturing in Canada productivity growth is up by roughly 4% in 1992.

Ms Harrington: It's 4% in 1992?

Ms Chandler: In 1992, yes.

Hon Mrs Coppen: Just briefly, I'd like to thank both of you for making these policy recommendations to us. It is a great way to start off a year, with the optimistic report you gave.

Both of you in your reports very quickly went over the free trade agreement and you, Mr Drake, mentioned the NAFTA agreement. I wonder if you could share with us your feelings of what will be the repercussions to this province if that deal goes through. We're talking about several amendments on the environment and so on, but what do you sincerely think will be the impact to this province and our recovery if the NAFTA agreement goes through?

Mr Drake: I think the adjustments we would expect if the NAFTA deal is ratified would be fewer and much less severe than the adjustments we made to the Canada-US agreement. In other words, I think many of the adjustments—and I stress the word “many”; I'm not saying “all”—many or most of the adjustments have been made.

I think indeed it is the United States that will be doing the major adjustments to the NAFTA deal if it goes through. I cannot sit here and tell you that there will be no adjustments, because I'm sure there will be, and based on the experience of watching the reaction to the Canada-US deal, there may be something that we haven't even thought of, as there was then. But it is our strong sense that most of the adjustments have

been made and that any adjustments that took place to the North American deal would be considerably less than we've already gone through.

The Chair: Time has run out. I'd like to thank you for coming before this committee. I think you've actually given us information we can use in this upcoming budget.

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The Chair: Mr McCracken, president of Informetrix, welcome back again this year to this committee. You know all the rules in this committee. You've been here enough. You have 45 minutes.

Mr Michael McCracken: Can I get a coffee?

The Chair: Yes, you can. It's going to be a long presentation, if you need a coffee.

Mr McCracken: No, that's to keep awake for the questions.

The Chair: Okay. You're good until 3:30.

Mr McCracken: Okay. What I've handed out to you are just the arrows we've used, I think, on at least one other occasion. I can perhaps just run very quickly through it. You've been hearing numbers from other people. I think you'll perhaps simply want to contrast them and then we can open it for questions.

If we can start with the real economic growth, speaking to the Canadian aggregate economy, which I think is the environment within which you'll be operating, I will have a few words about the province subsequently. With regard to real economic growth, this year is the second year in a row with substandard performance. We're expecting about 1% real growth in 1992, following a decline of 1.7% in 1991.

In the year coming we're probably, at least from what I heard a few moments ago, in the optimistic camp. Real growth of 3.5% is a conditional forecast we're making for 1993, and similar growth in 1994, 1995 and 1996, with investment exports adding to growth and inventory change providing an added boost. The Department of Finance, as you recall, put forward a number of 2.5% in the December economic statement. But this growth, even our 3.5%, is subdued when compared to previous forecasts.

If you turn to the next page, you'll see a diagram of the gross domestic product monthly over this recession compared in the grey line to the previous recession. We are still at this point in time, and this would be through October data, not back to where we were nationally in March 1990. We're still depressed in terms of level of output.

You can also see that after a drop that roughly coincided in the first 10 or 11 months with the previous recession, we have essentially been tracking sideways since that point, with very modest uptake in the last several months. While many pointed out that this recession has not been as bad as the previous recession, clearly it's been as long. It has taken at least as long to recoup the level at the beginning of the recession.

Just so we have some perspective also on where we are, if you look at the next chart, this is a plot of what the potentials of the Canadian economy are on the basis of a growth of approximately 3% labour force plus 1.5% productivity

growth. If we take the view that 1988 was potential—and that's a conservative view, both small-c and large—we would at the moment, in 1992, be operating about 9% below the potential of the economy. Over the next several years, with our growth at 3.5%, we begin to close that gap, but looking out over the balance of the decade we find that we do not succeed in closing that gap; indeed it's a number of years beyond before that succeeds with the kind of policy assumptions we're making.

Now 9%, what's 9%? You guys throw numbers around all the time. Let's just translate that into about \$60 billion of wasted output per year that we're not producing, that we could be producing with the people, the capital that's idle and the smarts that we already have. This doesn't require any magic other than managing our economy better.

On the interest rate front we are expecting some further declines. We had hoped to see more of them this year. Some of us have been disappointed at the hiccup in September, October and November which brought interest rates back up. In 1993, however, we think the prime can go back to 6% or less by the end of the year or earlier and we think we'll see some continuation of lower interest rates in the 1994-95-96 period, helped by reduction in real interest rates.

My warning to you is, of course, and I think I've warned you of this on several other occasions, don't bet against the Bank of Canada. They are certainly capable, and they've shown that again this fall, of reversing field when they feel the dollar is under some pressure or the economy is starting to grow a bit too rapidly.

On the inflation front, 1992 has been a particularly low level of inflation or rate of inflation. We expect something on the order of 1.7% on average for the year compared to last, and the November numbers on a year-over-year basis are in that same ballpark, coming off of a very high rate of 5.6% occasioned by the introduction of the GST in 1991.

This year, 1993, we're expecting a somewhat higher pay, some 2.8%, and averaging about 2% per year over the 1994-95-96 period. That 2.8% reflecting, as does this year, some of the consequences of a depreciation of the Canadian dollar.

These targets that we're forecasting on the next chart lie well within the band of the Bank of Canada's targets and hence there is no reason for any bashing by the bank of the Canadian consumer.

The unemployment rate this year: a slight decline average compared to 1992, 11.1% versus 11.3%, as the average for 1992, but nothing spectacular. The good news is that we're growing rapidly enough to stop the unemployment rate from rising, and that's essentially what is meant by potential growth rate. A growth rate of around 3% is sufficient to stabilize that unemployment rate and make a little bit of progress on it perhaps.

In 1994-95-96, again some modest improvement, but it is unlikely, with the kind of forecast we're making on the output side here, that we will get the unemployment rate nationally below 10% by 1996. You'd require much more rapid growth to achieve that.

Federal government balance 1992: We're suggesting there may be some modest improvement in the calendar year compared to 1991. In 1993 we expect again some

improvements, an up arrow here meaning a balance moving towards possible deficit declines to \$27 billion in 1993. These are on a national accounts basis; if you want a public accounts basis, add about \$5 billion to the numbers.

One of the reasons the 1993 deficit improvement is not more is the delay in the unemployment insurance premium hike for a year, announced in the December economic statement, which adds about \$3.7 billion to that number. In 1994-95-96, however, we would suspect, even with a reversal on the UI side or some uptake on the UI premium rates, that government balance will improve, helped by low interest rates and the return of growth.

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Exchange rates: The basic message there, as you've already heard, is that in 1992, following an appreciation in 1991, the dollar depreciated, averaging some 83 cents for the year. In 1993 to 1996, we're making an assumption of about a 79-cent dollar for the balance of this period. That may still be somewhat overvalued, but we expect the bank will only slowly turn loose. As I indicated to you earlier, while interest rates are coming down, they still remain high in real terms.

The consumer in Canada has been buffeted in 1991 with the decline in per capita terms of some 2.8% in growth. That continued in 1992 with a further hit of about 1.4% decline in per capita terms, reflecting higher unemployment insurance premiums at the beginning of the year, slow growth in wages and other taxes eating into income, and 1990 was also a weak year for real disposable income per capita.

In 1993 there will be a modest improvement, roughly 1%, and in 1994, 1995 and 1996 we would expect a continuation of that pace of improvement. That is not substantial and it leaves you at the end of 1996 still well below the per capita income levels of 1989 or 1990, but we will at least see consumer expenditure begin to pick up.

Just very quickly looking at the unemployment rate so far in this recession, the diagram by province that I've provided to you for this recession suggests that through December of this year Ontario's increase has been some 6.3 percentage points more than any other province; more than Newfoundland and indeed double that of western Canada and about 50% higher than a number of the Atlantic provinces as well.

Also, Ontario came into this recession or started in terms of a rising unemployment rate much earlier than other provinces, some 4.8%, the base level being reached in April 1989 and then rising since that time. These little hash marks that you see in certain lines indicate a few months in which the unemployment rate did decline on sort of a three-months basis. In the middle of 1991, it looked like we might be out with a slight decline in unemployment in Ontario, Manitoba, Saskatchewan and Alberta, and we got back into the pit after only a few months. At the moment, in terms of unemployment reversing, BC is the only one that's had a declining unemployment rate in the last several months.

Compared to the last recession, Ontario's increase was 6.2% over a shorter period of time, roughly a duration of about one year. So it rose more rapidly and it started at a higher base, 5.9% versus 4.8%. Hence it got higher, but the magnitude of the increase was somewhat—well, it was about the same order of magnitude as has occurred this time around, 6.3% versus 6.2%.

In case the question comes back up or for those of you who were asking about this recession vis-à-vis others, you might just file away, in the 1982 recession, the substantially higher jump in unemployment in Alberta, BC and Newfoundland compared to this time around.

In Ontario, as all of you I'm sure are aware, our data lags are such that you don't have actual data yet even for 1991 much less 1992, but the sense we have is a decline of about 3% in 1991 in real terms on gross domestic product, with that hit coming not just from the weakening in consumer, business, construction and government restraints but also slowdowns in exports and inventories. Federal and provincial budgets added restraint, giving us a negative year.

In 1992 it would look to us as if our growth was about 1.6%. That's slightly above the roughly 1% expected nationally, with somewhat lower interest rates, improved trade, lower inflation and a recovery in housing starts helping pick up the growth in 1992.

We would expect in 1993 the growth in Ontario would again be slightly higher than the national, with investment and exports expanding, inventory change picking up and also auto exports to the US of particular help, and growth in the 1994, 1995, 1996 period averaging, again, about a half a point higher than Canada as a whole.

This growth, however, is quite subdued relative to previous recoveries. I think on other occasions we've talked about the double-digit growth that occurred in the post-1981-82 recession.

All forecasts that people put out, ourselves included, are conditional on a number of assumptions. There is no other way to do forecasting unless you just pull numbers out of a hat. Certainly we're making a number of assumptions: no OPEC price shock, and we're assuming that the GATT deal does not fall apart, so we don't get any adverse shock to the system and have protectionist fences being erected in Europe and the US. We are assuming that real interest rates can continue to decline, although we're doing so slowly. And although we recognize that both the US and Canadian financial systems are having their difficulties, we are assuming that those are met and that we do not run into a complete shut-down of credit or a failure of financial institutions to the degree that both consumer and business confidence is shocked.

We also are assuming, at least for the next several years, that we have in fact put the constitutional debate behind us and that we don't try to divert our attentions to that in a major way or that there is no major follow-up. But that's an assumption; we should not be assuming that's automatic. And we have no major shooting match between federal and provincial governments in our forecast. We are assuming they will have roughly similar tensions as in the past: no great partnership leading to improved economic performance, but at the same time, no tit-for-tat policies that push us and again shatter business and consumer confidence.

That will give you a sense of at least the outlook and some of the assumptions behind it. I'm yours for questions until you blow your whistle.

The Acting Chair (Mr Paul R. Johnson): The Chair is returning; maybe I should let him proceed. He's going to give us our time frames. We're going to start with the PCs.

The Chair: We've got 24 minutes, eight minutes a caucus. I've just been trying to get the Amethyst Room. It seems like Remo—you have to get down on your knees to get that room. Okay, we'll start off with Mr Carr.

Mr Carr: He's the only Chairman who wears makeup to be on TV. We know he likes the limelight. Don't tell him I said that.

Mr Phillips: Hansard may have picked it up.

Mr Carr: We do like to have a little fun around here occasionally.

I'm interested in what your recommendations would be from the Treasurer's standpoint. I remember that last year you came in and had the reputation of being more forthcoming with some of the recommendations. The US is going to lead some of our recovery because of exports, but I'm thinking specifically about Ontario consumers. As you know, last year the budget put a surtax on anyone making \$53,000—a massive surtax—which hurt consumer confidence.

I'd ask you, if you were the Treasurer, specifically with regard to taxes, what would you say he should be doing in the budget?

Mr McCracken: He has the advantage, at least in past practice, of following what the federal government does, following the federal budget. Last time, when he saw a personal income tax cut federally, along with restraint federally in other areas and on the spending side, he quite properly said, "Oh, you left that there for me," and filled in the hole very quickly.

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If the federal government does nothing or moves to restrain, then it's going to be awfully tough for the Treasurer of this province or any province to move to stimulus. All you will be doing then is twisting the consumer or business with movements in the opposite direction. If the federal government does move in a stimulative fashion, with, for example, a reduction in the goods and services tax or some changes on the personal income side, I would encourage the Treasurer of Ontario and indeed those of other provinces to consider complementing that, moving in the same direction, reinforcing those movements, with the hope that together there may be sufficient to kickstart this economy.

That might take the form of a temporary reduction in the retail sales tax. It may take the form of a reduction in the tax on investment goods: retail sales tax on non-manufacturing, non-processing. It could take the form of some moves on the personal income tax side, although most economic studies we and others have performed suggest that if your interest is in jobs and in growth, you get more bang for your buck out of the indirect tax side, the sales tax side, than you get out of income tax, and certainly more than you get out of corporate tax changes. The other area of course where you get a bang for your buck is on spending, particularly infrastructure spending in the province.

I would certainly encourage, first, for him to think about the direction, net, that he's going to move. I think the economy still needs stimulus. It needs it from wherever it can get it. One reason for pointing out to you this 9% gap in output is to point out that there's no danger we're going to run into a brick wall any time soon—it's almost inconceivable we could

overstimulate at this juncture, we are so far from full employment or from potential output—and the first order of business is to get the direction right, to get us closing that gap rather than opening it.

We think we will see some of that. We have the December economic statement in mind in making this forecast, but we're assuming there is no major stimulative action in the federal budget or in the provincial budgets in the numbers we've given you.

Mr Carr: I think you're right. One of the difficulties we've got is that provincially and federally we go in different directions. It's not only here we've done that.

You came in last year, and I remember we were talking about the tax structure as well. If I remember correctly, you came up with a bold solution regarding the corporation tax. I don't know if you remember it, but you said with the percentages we get out of corporation tax, which I believe is somewhere in the neighbourhood of around 7%, last year you said if this government wanted to do something bold, it could reduce the corporate tax provincially altogether, and it would be something to show the business community it was a little different.

Looking at the finances and the deficit and so on, what would you recommend with regard to corporation tax, knowing that in the province of Ontario we only get 7% of our revenue from it? What do you suggest the Treasurer do specifically about the corporation tax?

Mr McCracken: On the corporate tax side, if you want to eliminate it, I think if you'll recall I suggested you might want to get the same revenue another way with the equivalent of a GST or what used to be called a business transfer tax. But the point of doing that is simply to give a signal to the business community that you're trying to motivate it to go somewhere. I suspect at this point in time, when people's focus is on what's happening south of the border, when people's focus is on, "Is there any reason to change my mind from pessimism?" any kind of a tax reform move is not going to catch their attention in the same way a spending change might, although it will be interesting to see what the Fair Tax Commission reports out, and I guess corporate tax would be one of the areas it might be looking at.

Again, I have no strong concern about the corporate tax side. At the same time, I think we want to make sure that in one form or another corporations do contribute to the society in which we live.

Mr Sterling: Mr McCracken, last year you and a number of other economists who appeared in front of this committee predicted real GDP growth in the province quite in excess of what really has happened.

Mr McCracken: About double. I think we were about 3%, and we got about 1.6, I think, is what we're now saying happened, right?

Mr Sterling: I have that you predicted, for instance, 4.8%.

Mr McCracken: For 1992 or for 1993?

Mr Sterling: For 1992.

Mr McCracken: I don't have my submission from last year, but that's fine. The point was that we had a US recovery that was substantially stronger, with an auto pickup that

was substantial, and of course Ontario benefits substantially from that.

Mr Sterling: You weren't alone. The TD Bank, which was here before, predicted a 3.6% GDP growth and the conference board 3.5%. Couple that with some of the other things that are happening and you wonder why the economists are so far off. The difference is significant in terms of what has happened over the past year: 3.5% to 1.5% is 66% off, if you want to look at it that way. Why were the economists so far off on this?

Mr McCracken: It's easiest perhaps to talk about it at the national level. The Department of Finance, if you recall, in its February budget last year was reporting some 2.7%. They now are saying 1% between February and December, and I would say that would reflect the revisions that most have made.

When you look at what's happened, the US economy has not recovered as was thought it would at that stage. Most people were looking at a 3%-plus growth last year. That's faltered and come in perhaps around 2% on a year-over-year basis, maybe even less.

The Canadian dollar weakened, I would say, roughly in line with what people expected, but the drop in interest rates that was expected did not materialize as much and that was the area of difficulty. That reflected in more weakness in non-residential construction, the building side, which has been dropping like a rock this year, and not much strength—in fact, we'll see what numbers come out in the end, but certainly weaker machinery and equipment investment than had been anticipated and substantially weaker inventory buildup, which last year had been expected to all by itself add a per cent of growth this year; it's in fact taken away growth.

Those are the main elements to it. I think this has had further weakness in the consumer, occasioned by the fact that the productivity growth in 1992 has been better than anticipated by most, so employment has in fact been weaker. That means payrolls are smaller and that means real disposable income grows less, so you have a weaker consumer on top of that. Those would be the main areas.

Mr Sterling: Do you equate any of—

The Chair: Mr Sterling, we've run out of time. I was just waiting for Mr McCracken to finish up his answer.

Mr McCracken: I'll try to make my answers a little quicker.

Mr Sterling: Could I just—do you equate any of it to this government's policies, particularly Bill 40, the labour bill, which was so vociferously objected to by the business community?

Mr McCracken: I don't. I heard the screams and the yells. It has been in for a few months now, and it's not clear that it's had any places where you can say, "Here's what it's caused to happen." It may become a factor in subsequent years, although whether that will be a positive or a negative factor remains to be seen.

Ms Swarbrick: Mr McCracken, I have two questions for you. The first one is that you've referred to the positive impact that housing starts have had on the recovery. I've read in different articles some people even saying that the

recovery has been led by housing construction. Mr Drake had referred earlier to the increase in housing starts from 1991 to 1992 being very much in the social assisted housing field, that in the other housing areas there had actually been a drop in the starts from 1991 to 1992. I'm wondering if you'd indicate whether that would then lead one to believe that the Ontario government's housing programs have in fact very much had a positive impact on the recovery.

Mr McCracken: Well, certainly in 1992 it's helped. Keep in mind that we wouldn't typify 1992 as a recovery. Unemployment still rose.

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Ms Swarbrick: On the small amount of recovery that has—

Mr McCracken: It kept it from being worse than it might have otherwise been. Certainly, to the extent that those can continue, that will continue to underpin growth. We have a continued improvement in housing starts in Ontario and nationally in 1993. I think we're currently looking at about 190,000 nationally. We're still putting the final touches on all of our most recent forecasts, but certainly social housing is a positive thing from the economy's viewpoint. It's also very positive for the people who occupy it, giving them a place to live or to get off the streets, as the case may be. So you would do social housing in many periods even if there were not a recession.

Ms Swarbrick: Mr Drake from the Toronto Dominion Bank referred to the recession being the result of high interest rates and also exacerbated by restructuring. In answer to Mr Harris's question about why Ontario was hit harder by the recession than other parts of Canada, Mr Drake answered that our competitiveness was lagging because there wasn't as much restructuring in Canada as there was in the US as a result of the recession in the early 1980s.

I'm wondering, number one, whether you would say then that the governments of the 1980s should have been more forward-looking in Canada, to have helped industry to restructure to help prevent us from ending up in a situation with such a hard-hitting recession, and number two, whether the kinds of priorities and policies the Ontario government is now following in terms of the areas of heavy emphasis on job training, for instance, where we're putting 24% more dollars this year into job training than last—this is the most money any Ontario government has ever put into job training—whether that and the kinds of policies we're pursuing for research and development, capital investment, infrastructure etc are the kinds of right-headed policies this province needs to help move us into a stronger recovery.

Mr McCracken: After that question, how can I say more than yes? Let me just clarify a couple of things. This recession clearly was a policy-induced recession by design. Up until a few months ago, you could still get people bragging about it. Certainly, its effects through a higher dollar and higher real interest rates had a particularly adverse effect on Ontario. Ontario gets hit about twice as much from a rise in interest rates or a rise in the exchange rate as any other province, and in some sense you got both of those. That's really why this recession, even though it's milder in national

terms, has been just as severe in Ontario as the previous one in terms of job loss or output loss.

The kinds of changes you've elaborated on are certainly the kinds of things one wants to do. At least that's what we want to try. The thing I would point out is that both the federal government and the provincial governments are talking about doing all of these things. I think the key is that we get them done.

The 25% increase in training is off a pretty low base. That's the promised training this year of 25%, up from 1992. I think it's very important that this government makes sure it delivers on that and gets that training done, because it certainly should help. It should help people adapt. Rhetoric won't do it. You've got to deliver on the programs. I'm not suggesting the Ontario government is unique in this. There's lots of talk federally, lots of talk elsewhere, lots of time has been going on talking about restructuring, yet we still seem to be caught up on the simplest things like how to work out arrangements between the federal government, the Canadian Labour Force Development Board and OTAB at the provincial level to get something significant happening. It's the kind of thing where you would like to grab people in a room, hit a few heads together and say, "You don't come out until you've solved this problem so we can get on with delivering services." So I think it's very important that we not only talk about what we're going to do but also talk about what we have done, to make sure that those who tell you they're going to do 25% more training do it.

Ms Swarbrick: Mr McCracken, you've said that up until a few months ago you could still find people who would brag about this having been a policy-induced recession. Who would brag about that kind of thing?

Mr McCracken: Oh, anyone: the Bank of Canada, the Department of Finance. This was a desired tendency to slow down the economy—it was overheating—to cool things down. We were too close to full employment, too close to having inflation get loose. I think even they now are just beginning to appreciate that maybe they have done a bit more than they planned.

Mr Johnson: How much time do I have?

The Chair: You've got about two minutes left.

Mr Johnson: Mr McCracken, the recovery is going to be very fragile. I think you've said that. There are many external factors, global factors, that will impact on any recovery in Canada. Canada is a very small country; large in size but small in population and small in economic dynamics, I think, too. Of course, there are the internal controls that I suggest the federal government has the most control over, for example the Canadian dollar and interest rates and some taxes. When you're trying to do an analysis and bring forward to us this document that you have, do you take into consideration some of the external global factors over which we have no control?

Mr McCracken: Oh, indeed. We would be making assumptions about growth in Europe, Japan, the US, interest rates abroad and so on. Indeed, it's Europe not performing well in 1993 that has caused us to take a slower view than was the case a year ago. A year ago, there was optimism that not only would Europe expand in 1992 much more than it has

but that, with the year of 1992 having become a factor, it would be entering a period of relatively rapid growth in 1993, 1994 and 1995. That certainly at the moment is at risk. It is our best reading that almost every European country this year, 1993, will grow below potential, meaning rising unemployment, and that they will be going through the kind of agony that we have in North America last year and the year before. Even Japan has now been added to the casualty list, if you will, of subperforming economies for 1993.

In spite of that, given Canada's strong linkage with North America, we are optimistic, and I would say at the moment we are probably a bit on the optimistic side compared to other forecasters about the US economy. There has been a positive announcement effect with Bill Clinton's election, and we feel that, net, he will take some policy actions in the next few months that will move them up from a consensus forecast in the US of about 2.5% or 3% to probably 3.5% or 4% for 1993.

Mr Kwinter: Mr McCracken, I want to go back to your comments about the unemployment rate. I was particularly interested in your observation that the unemployment rate this year would be 11.1% as opposed to 11.3% last year but that was basically because of the growth in the workforce. In real numbers, though, according to your projections, there will be more people in Ontario out of work this year than there were last year. Is that a fair comment?

Mr McCracken: Regarding the unemployment rate reduction in Ontario, you'll probably get more of your labour force coming back, so you will have probably a similar number of unemployed and maybe more in 1993 than in 1992. That will be because you have sometimes had a hidden amount of unemployment as a result of people leaving the labour force, going back to school or dropping out. Those people will come back and, as a result, give you more rapid labour force growth even though your employment may be improving. In other words, it's possible to have more job creation, as we expect you to have, just a rough number, something like about 100,000 more jobs in 1993, and at the same time have 40,000 more unemployed, because your labour force would have gone up by 130,000.

Mr Kwinter: The point I'm making is that in real numbers there will be more people unemployed this year than last year although the percentage—

Mr McCracken: May or may not be different.

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Mr Kwinter: Yes, it may not be different.

The other point is that when you show the comparison between 1982 and 1990 you talk about the low productivity in 1982 and the fallout of the recession creating high productivity in 1992. That leads me to believe that there's going to be less of a takeup of the unemployed because you've got the higher productivity, which means these companies will be able to meet their requirements without hiring people, because they've got higher productivity, whereas in 1982 there were a lot of layoffs but, because of the low productivity, when business started to pick up a lot of people were re-employed. Have you done any studies on that, as to what is going to happen to the workforce?

Mr McCracken: Yes. It doesn't quite work that way. There was a productivity pickup coming out of the recession

in 1982, 1983 and 1984. Indeed, the unemployment rate nationally rose in 1983 compared to 1982, precisely because people came to the labour force. There was some employment growth, but it wasn't enough. You were getting good productivity growth. You got good productivity growth in 1983, 1984, 1985 and 1986, as the economy continued to expand. Keep in mind that in some of those years we had growth of 6% plus. We expect that kind of what we call cyclical productivity growth to occur when we're bouncing out of a recession. It certainly hampers the job creation, the employment creation.

This time around we're not getting terribly strong employment creation, because we have a much more muted recovery. The kind of productivity growth that we're getting, to the extent that we're getting much, is less cyclical in nature—we're not getting big spikes in it—more associated with the fact that we have been adding, surprisingly, a substantial amount of machinery and equipment investment in the last several years, in spite of a recession that would normally make you hold back on that investment. We're not productivity pessimists, but because the growth is slow and the gap in output stays fairly large, we're not expecting a big cyclical improvement in the next few years.

What does all that stuff I just said mean? It says that you can have 3% growth, 4% growth even, in the province and you're going to be, unfortunately, disappointed with the kind of employment growth that you get out of that. But, you know, if you want to get more employment growth, the way you do it, get 5%, 6% or 7% growth, that's going to take a much more vigorous consumer and business person to achieve.

Mr Kwinter: That was exactly the point I was trying to determine. In your opinion, notwithstanding the growth in the economy, it's not necessarily going to reflect in an increase in jobs.

Mr McCracken: That's right. I mean, 100,000 sounds great, but not after you've been losing 300,000 or 400,000.

Mr Phillips: I'd just like to get your advice. In the last couple of years in Ontario I think we've lost a couple of hundred thousand jobs. In the next four years, the government's assuming we'll pick up 500,000 new jobs—that's the underlying economic assumption—which is about 10% growth in jobs. As an economist, in what sectors would you see that kind of job growth occurring?

Mr McCracken: I don't have it at my fingertips. We have some forecasts of it by detailed sectors, but most of the job creation in Canada is occurring in the services sector—business services, consumer services, health. There is less so in education, but there is some in education. You don't get much in manufacturing. Indeed, while we might have positive growth in manufacturing, it's unlikely that we're going to be back this decade to the manufacturing employment that we had in 1988. That's nationally and/or in this province. You're going to be looking for it elsewhere.

The reason you get it elsewhere is basically because you've got incomes being generated and people are buying those services. You'll have incomes generated in manufacturing, you'll have some pickup in employment, high-paying jobs, but you don't get big growth in that sector. That would be the

picture, if you will, in a snapshot way, of where the jobs might be.

Mr Phillips: In the service sector?

Mr McCracken: Mainly in the service sector, and that doesn't mean McDonald jobs.

Mr Phillips: I understand that, but that's about a 30% increase.

Mr McCracken: It can be finance, it can be—you know, 70% of the economy is in the service sector, so it's not surprising that's where the jobs are.

Mr Phillips: The other question I have is just any advice you have for us in terms of how the global investment community is watching Canada right now in terms of the collective debts and deficits of the various levels of government, and I guess ultimately the public. Should we disregard that or is that something we need to view with concern?

Mr McCracken: I think you can't ignore it, but I wouldn't pay homage to it. I think all this stuff is relative. Certainly, the Europeans now are focusing on their own problems increasingly, and the Japanese, who are alleged to be down on Canada on January 2, look back on their own economy and can see some strong reasons to say, "Maybe we'd better diversify our portfolio as well." I wouldn't get overly worked up.

The key thing—I think we've talked about this before—is that if you can get your interest rates down and your real growth up, these two factors, narrowing that spread or indeed hopefully reversing it so that real interest rates are less than real growth, are going to take care of your debt instability problems and will put you into a much more healthy situation as an individual, a provincial government or a federal government, or indeed our relations internationally.

As we bring rates down and as people see that our growth prospects pick up, I think you'll find that Canada gets back on the list of good lookers from the viewpoint of international investors and indeed of Canadians, who often are those international investors.

The Chair: Mr McCracken, it's a little past 3:30, but that's all right. We wanted to hear that last answer. I would like to thank you for appearing before the committee.

Mr McCracken: My pleasure.

The Chair: I always like your slides—

Mr McCracken: There you go.

The Chair: —and your pamphlet here. It's always very plain and easy to read. I'd like to thank you for appearing again this year.

Mr McCracken: If I come back next year, I'll bring cartoons. How's that?

The Chair: Thank you.

Mr Sterling, it seems that Mr Mancini has given us a definite no. I will excuse you from committee for half an hour if you want to go down and talk to him. It looks like we'll be in this room tomorrow.

Mr Sterling: It's unfortunate for everybody, but that's the way it is.

The Chair: I bend a little bit more as the Chair, as you know, Mr Sterling.

Mr Sterling: Sure.

CANADIAN IMPERIAL BANK OF COMMERCE

The Chair: The next one we have is the Canadian Imperial Bank of Commerce and Mr Whitehead. Welcome again this year to the standing committee on finance and economics. You have until, I believe, 4:15. I hope it's more good news.

Mr Tim Whitehead: Mr Chair, members, I would like to begin by thanking you for the opportunity to appear before your committee once again this year. As an economist, I'm not used to being invited back to speak, so I'm very appreciative of the invitation.

I note that the letter of invitation said that your committee was interested in hearing my views and analysis on the current state of the economy and my forecast of economic performance over the next year or so. I have chosen not to take those terms of reference as limiting. Instead, while the first part of my comments will deal with the economy and the outlook, the second will contain such advice as I am able to give in regard to the preparation of the budget.

The economic outlook: When I met with your committee last year, my forecast for the Ontario economy was that it would grow very slowly in 1992, that the unemployment rate would remain high and that both interest rates and the dollar would decline somewhat. On all four counts, I was guilty of understatement, particularly so in the case of the dollar, but the general trend of the weak recovery has largely transpired.

The fact that this weak, perhaps even statistical recovery has not resulted in significant job creation is of course the critical concern. If we assume, as general rules, (1) that real growth has to be at least 1% to compensate for labour-saving productivity improvements, and so lead to net job creation, (2) that employment growth has to be at least 1% to offset growth in the labour force, and so lead to a decline in the employment rate, and (3) that firms are particularly reticent to hire workers in this uncertain economy, then it is a simple arithmetical matter to see that real growth must be a good deal more than 2% just to keep the unemployment rate from rising. Most estimates are that real growth in Ontario was about 1.5% in 1992. Correspondingly, we saw the province's unemployment rate rise considerably last year.

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Will the situation be any better this year? I don't presume to speak for the other presenters today, but most forecasts I have heard suggest that Ontario will grow by between 3% and 4% this year. The CIBC forecast calls for about 3.1%, marginally better than the national average. This, according to the simplistic method I've just outlined, would lead to a very small decline in the province's unemployment rate. Our forecast has the jobless rate falling from 10.9% in 1992 to 10.6% this year.

The strongest growth prospects are in the export sector, where the nascent recovery in the United States and the relatively low Canadian dollar bode well for Ontario's economy. I am less sanguine about the outlook for non-residential investment. My perception is that businesses, as pressed as they are to invest to meet competitive pressures, are still wary of the economic and policy climates. I don't have a specific growth number in mind for non-residential investment, but I am sceptical that investment in machinery and equipment will

grow in real terms by the 7.5% envisaged in the Treasury and Economics outlook.

The big question mark, both in importance and uncertainty, is the consumer sector. Continuing high unemployment and the threat of downsizing will probably constrain consumer confidence for some time to come. Even so, after four years of relative restraint and with interest rates down sharply, the Ontario consumer should be returning to the market. Which will dominate in 1993, continuing economic uncertainty and a lack of consumer confidence or a gradual end to belt-tightening? My sense is that consumer spending will grow somewhat faster than the provincial economy, with spending up by about 3.5% in real terms.

Overall, we at the CIBC are looking for growth of 3.1% in 1993, as I said, a modest increase in employment and a very small drop in the unemployment rate. Another important factor for the province's revenues is that inflation should remain very subdued. In Ontario, the rate is likely to be little more than 2% in 1993. I've included a table outlining my forecasts at the end of my handout.

I've talked in terms of the economists' constructs of the expenditure categories. Let me turn to discussing the outlook in more concrete terms.

On an industry basis, we expect relatively strong growth in transportation equipment, plastics, logging and forestry, and electrical and electronic products.

In the case of the transportation equipment sector, which includes automobiles, and forestry, this growth represents just some recapturing of ground lost during the recession.

Industries which are expected to lag behind the overall economy include primary metals, machinery and equipment, construction and metal mining.

On a regional basis, the forecast suggests a very weak recovery in the northern parts of the province and a relatively stronger recovery in the greater Toronto area. The rest of Ontario should see growth approximating the provincial average.

Regarding the upcoming provincial budget, this projection of continued sluggish recovery and sparse job creation is not a good environment for budget making. An old rule of thumb is that in the absence of tax changes, revenues grow at 90% of the nominal rate of growth in the economy, and so the sluggish growth points to weak revenue growth. I'll have some more detailed comments about revenue projections in a few moments.

The slow pace of job creation means that the province's tremendous burden of welfare costs is not likely to ease in 1993. Low inflation will help to contain the growth in other costs, and the relatively stable interest rates will give the somewhat cold comfort that debt-servicing costs will rise at a rate approximately equal to the growth in the province's outstanding debt. Overall, the economy's performance will not make it easy to achieve a significant reduction in the province's deficit in 1993-94.

I want to devote some time to the revenue projections because I have a number of very serious concerns on this score.

In his 1992 budget, the Treasurer included a medium-term projection of revenues and expenditures. Revenues were to grow from \$44.9 billion in fiscal 1992-93 to \$48 billion in

1993-94, based upon, among other factors, the assumption of the Ontario economy growing by 3.2% and 6.1% in nominal terms, that is, with inflation included, in 1992 and 1993, respectively.

In his most recent fiscal update to the Legislature, the Treasurer indicated that, to quote him precisely, "in the absence of further policy changes, we now estimate our total revenues next year will be \$4.2 billion less than planned in last year's budget." I believe he's right. But let's look at the revenue projections contained in last year's budget. I've included a graph at the end of my handout.

From the revenue projection for 1992-93—that's \$44.9 billion—subtract the items which were essentially one-time sources of revenues: the fiscal stabilization grant from the government of Canada and the sale of assets, \$2.2 billion together. The resulting \$42.7 billion represents revenue from ongoing sources.

If we assume that this revenue grows at 90% of the rate of nominal growth in the economy, the 6.1% that was included in last year's budget, then revenues in the absence of further policy changes would grow to \$45 billion in 1993-94. Add about \$500 million to take account of the full impact of the taxes introduced in the 1992 budget and some bounceback in corporate income taxes. The resulting projection of revenue for the province of Ontario in 1993-94 is \$45.5 billion.

The discrepancy between this projection and the \$48-billion figure included in last year's budget is \$2.5 billion. Without revenue enhancements of some sort, the province will fall short of that amount. The downgrading of growth projections—they mainly have been on the inflation side—since the 1992 budget has probably added to that shortfall.

I want to return to another aspect of the revenue projections which I have mentioned briefly in passing, the inclusion of one-time revenues in the operating account of the budget. In its first budget, the government made a very sensible move to split the account into two parts, operating and capital, to reflect the fact that some expenditures should be viewed as investments, should be amortized over a number of years and should be recognized as one-time expenditures. The same logic would suggest that one-time revenues such as those arising from the sale of assets should not be included in the operating account.

Having analysed a lot of provincial budgets over the last few years, I put a lot of emphasis on a full representation of a province's financial situation, weaknesses as well as strengths. This moves me to make the suggestion, and I realize that it's an ambitious one, that the committee consider recommending a fundamental change in the province's accounting methods. Instead of cash-based accounting, the province should consider moving to accrual-based accounting. This would mean that expenditures and revenues would be recorded when they are incurred as opposed to when the cash actually changes hands.

Under the accrual method, the federal fiscal stabilization grant would be recorded as revenue in the year for which it was, in effect, earned, 1990-91 and 1991-92. Instead of selling land to a crown corporation, in order to recognize its appreciated value, reassessments would be conducted periodically so that the province's balance sheet was a reasonable reflection of the situation. Commitments for expenditures, be they

grants to municipalities or other transfer partners or contributions to pension funds, would be recorded in the year they were incurred.

This would be a major change but it would do much to reassure citizenry and bond-holders alike that the finances of the province of Ontario were open to view, were in effect transparent. New Zealand has already chosen to adopt this more transparent form of accounting as a step to more open government.

I want to conclude by returning to an idea I suggested in my presentation last year; that is, that the government should consider establishing the expenditure side equivalent of a Fair Tax Commission, a group of outside individuals to examine the ways in which public funds are spent in Ontario and to recommend ways to save money as well as identify the associated costs, if any, to the quality of publicly provided services in the province. I would even structure a group after the pattern of the Fair Tax Commission; that is, I would have working groups focus on specific categories of expenditure for a fixed period of time. For example, a working group might examine social assistance and reassure taxpayers that fraud is minimal or that all reasonable efforts are under way to eliminate fraud if such is the case.

I know that members of this committee share the concern to save money where possible. I think this effective expenditure commission, as I call it, would serve a useful purpose in this regard. I also believe that an effective expenditure commission could achieve the equally important goal of assuring the taxpayers of Ontario that their tax dollars are well spent.

That assurance is vitally important. Everyone in Ontario, it seems, questions the value they get for their tax dollars. Part of this stems of course from the fact that taxes are high and continue to rise. It also comes from the fact that people frequently do not perceive much benefit from the taxes they pay.

We pay a lot for education in Ontario, but parents perceive that their children are not keeping pace with children in other countries. We pay a lot for health care, and I think certainly by comparison to other countries, we get good value for it, but there are perceptions both inside and outside the health care sector that much of the money is wasted. Social assistance and income support absorbs about 20% of the province's operating budget. The vast majority of Ontarians strongly believe in helping the less fortunate, but there is also a widespread suspicion that some of that budget is wasted and that there are people abusing the system. Finally, as debt-servicing costs continue to absorb more and more of the province's revenues, it will be increasingly difficult to convince taxpayers that the associated debt was accumulated for good purposes.

On this score, I need hardly tell you that people generally are no longer satisfied to be told by politicians that tax dollars are being managed prudently. There's a credibility gap for whatever reason. Economists share it.

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This is why I believe that a thorough, independent, believable review of the ways the government spends tax dollars is essential. I worry that without such an effective expenditure commission, there will be a continuing and gradual deterioration in how the average citizen perceives the use of her or his

tax dollars. That could contribute to more businesses leaving the province, more individuals taking their marketable skills elsewhere and more resources devoted to tax avoidance and tax evasion.

An effective expenditure commission will not of itself solve this problem of course, but at the moment I cannot think of a better way to start.

Chair and members, by way of conclusion, let me summarize my key points:

The Ontario economy should grow by a little more than 3% in 1993, but the pace of job creation will be disappointingly slow and the unemployment rate will average in the mid-10% range.

Based on the economic projections contained in the 1992 budget and the latest updated outlook from Treasury and Economics, the province cannot expect revenues of \$49 billion in fiscal 1993-94 without revenue enhancements of some sort.

To provide a fairer, more complete, more transparent statement of the province's financial situation, the committee should recommend that the current system of cash-based accounting be replaced by one of accrual-based accounting.

This committee should recommend the establishment of an effective expenditure commission composed of outside and independent persons to consider the effectiveness of government spending.

Again, I thank the committee for the opportunity to appear before it. I'd be happy to answer any questions you may have.

The Acting Chair: Thank you very much, Mr Whitehead. The normal rotation would go to the government side.

Mr Ward: I think it's the general consensus that the recession or depression, however you want to define the tough economic times we've experienced over the last couple of years, has been more than a simple business cycle and that we've undergone tremendous structural change to our provincial economy.

We heard from an economist before you as well as the Toronto Dominion Bank. They're both relatively optimistic in projecting economic activity in the year 1993 as well as in future years. I believe you share that same sense of optimism to a degree. Do you feel, from a provincial standpoint, there is limited action that can be taken on the economic front and that the province should really be focusing on long-term policy implementations dealing with these structural changes rather than the business cycle?

Mr Whitehead: I'd agree with almost all your points. I think this has certainly not been just your typical downturn as part of the business cycle. Certainly it has been superimposed with a lot of restructuring. It has also had a demographic component, which perhaps other speakers have spoken to, and the fact that people are out of their peak spending years. There's that baby boom factor.

I'd quibble with one point about optimism. The 3% growth I'm talking about for next year doesn't really constitute a lot of optimism in my mind. It's still pretty meagre growth given what we've gone through.

As for the important part of your question, as I understand it, can the province do very much about the very short term

economic situation, I would argue that almost no government in Canada can do anything about the very short term. In fact a lot of our problems have arisen because subsequent governments going way back have made ongoing efforts to try to ameliorate the very short term downturns. Rather all governments should put more focus on trying to correct things for the longer term.

That really addresses more the restructuring issue. Whether governments can play a very big role in aiding that restructuring is another question. It's very difficult for governments, as for anybody, to pick winners and losers. To the extent that they can help with infrastructure, job training and that sort of thing, perhaps there's a role there.

Mr Ward: From that I'm gathering you're suggesting that governments should be attempting to put in place or assist in the fundamentals so that the private sector can have adequate room to grow and prosper rather than concentrating on the short-term, fiscal outlook of tremendous job creation through short-term stimulus.

Mr Whitehead: I would certainly recommend against short-term stimulus to try and create jobs. As for what the government can do to help with the longer-term environment for the private sector to create jobs, I would balance the desire for infrastructure or job training against the negative consequences, some of that, and that is a higher deficit and consequent tax increases down the road.

Ms Swarbrick: I share your concerns very much about the continuing apparent deterioration and I believe there is a continuing deterioration in people's perception as to how well their tax dollars are spent. That's something that I know has troubled me considerably. I'm going to give some serious thought to your proposal around the effect of an expenditure commission, because I think something needs to be done.

One of the things I'm wondering about, though, is that you're talking about the concern about welfare abuse and that being a means to help redress people's concerns around that. Given that, as you also refer to and many others do, the great increase in unemployment caused by the restructuring of the recession and the other factors that have led us to such a significant recession are really the causes behind it—and I assume you would agree with me, and that will be a question to you, I guess, too—and given the tremendous effects of the recession and that the unemployment it has caused is clearly the biggest factor in the increase in the number of people on the welfare rolls, I'm wondering if you wouldn't agree that in fact then the biggest way to reduce the welfare costs would be to create jobs.

If we look at what Mr McCracken was saying, that the recession in fact was a policy-induced recession, that you can look at people setting out to say they've got these goals of trying to in fact depress the economy that led to it, I don't understand why we couldn't establish goals that clearly were geared to being able to stimulate the economy in a way that would create that employment. So in spite of what you've just answered to Mr Ward, I'm wondering if you could paint the picture as an economist of what kinds of policies you think would help to meet that kind of a goal of employment creation as the best way to get people off the welfare rolls and save all of our tax dollars.

Mr Whitehead: Okay, there are a number of questions in there. Regarding the first part, the dramatic increase in the welfare costs of the province, I can't find anybody who would argue that it has not been a consequence of the deep recession that we've just had. It's not fraud, no matter what Diane Francis may write; it's clearly a fact that unemployment insurance has run out and people are back on welfare.

The bigger question, though, is: Can the government do an awful lot to get those people off welfare in the short term, or will it cost it even more to create those jobs than the ongoing maintenance cost of welfare? I am somewhat doubtful that the government can really spend money in such a way that it gets people off welfare and saves money that way by stimulating the economy.

Let me phrase this precisely. I believe that the cost to the government sector, and that would include the federal government, is greater to create a job than is actually saved in terms of costs to the government sector, because the best that could be hoped for is that you would get these people off welfare and get them back working, which I'll grant you is a desirable social goal in itself. But in terms of the pure numbers, all you do is shift the burden to the federal government and the unemployment insurance and then get to buy yourself a respite before you have to pay for the welfare costs again. What you need are sustainable jobs and ongoing jobs, and I'm not sure that the province can do that in the short term.

Ms Swarbrick: What about the long term?

Mr Whitehead: The only sustainable jobs you're going to get in the long term are from the private sector, and to me that comes back to the answers I was giving to Mr Ward. Primarily, you've got to have a proper business environment to create the jobs. I don't mean low taxes by that—I don't think superlow taxes are the answer—but a stable, believable future of taxes that are not going to continue to go through the roof, and in fact should level off, and a reasonable infrastructure.

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Ms Swarbrick: So would you say putting more money into creating jobs in the short term by building the infrastructure for the long term, such as our government is trying to do, is in fact one of the good policies that needs to be pursued? Would you say more needs to be put in there?

Mr Whitehead: No. Actually I'd be concerned about doing that, because I think when you run up the deficit, what happens to consumers is they become very scared. The deficit, the provincial deficit in particular, has become a bit of a barometer of this recession. The fact that we've had a couple of 11-digit deficits, I think, has done as much as almost anything else to scare consumers into thinking that the economy really is going to hell in a handcart. To run up that deficit even more, even if it's going to have long-term benefits, may in fact exacerbate the situation and cause people to retrench even more.

Ms Swarbrick: But you sound like you're doing what I think a lot of economists do. Basically, you put out a nice generality of, "Create a stable environment and not let taxes go through the roof," but what else? I mean, surely people like yourself have some kind of innovative ideas in terms of what are the things to get us there in the long run, and you can start being specific about them instead of just being negative about some of the things governments like ours are trying.

Mr Whitehead: I'm not trying to be negative. I don't want to leave that impression.

Ms Swarbrick: I appreciate that, but be positive and specific.

Mr Whitehead: Okay. I understand the desire to spend money in terms of infrastructure, but there are difficult times that we're facing at the moment. If you try and spend money on that infrastructure, you run the risk of pushing up the deficit and so scaring people even more. I would say far more important is to make a lot of the tough decisions on the expenditure side—and the government has made a number of tough decisions, but you're going to have to make more, it seems to me, because that's the only way you're going to be able to reassure people that their taxes are not going to continue to go through the roof.

Ms Swarbrick: Is that the only solution?

Mr Whitehead: It's the one that comes to me immediately. I could go into little detailed suggestions. The one that occurred to me a few days back was maybe a tax on hydrocarbons matched by incentives to spend on energy savings: a revenue-neutral tax. It might encourage people to go out and actually spend money to refit their homes, or whatever. That's a proactive sort of thing. I haven't tried to do any analysis on that. Perhaps somebody in Energy's doing that.

The Chair: I'm going to have to go on to Mr Phillips.

Mr Phillips: I appreciate the work you've done on this. I think it's insightful. I'll just tell you, my own view on your numbers is that they will solve it. The fiscal stabilization money is not coming in this year; it will be rolled into next year. So that's how \$1.2 billion will flow in.

Mr Whitehead: It was rolled in from last year too.

Mr Phillips: Yes, I know. It keeps rolling and then the day the budget comes out the deficit is higher than it was expected. I think they may keep selling assets next year as well. They've got unlimited assets. It's a paper transfer to themselves. So that's how, in my judgement, they will get more revenue next year. The deficit will be announced, the day of the budget, differently.

I agree with you personally on the accrual versus cash basis. If this were a company, there'd be no accountant in Canada who could sign the books. I do think the books don't reflect the numbers for the public. They're not doing anything illegal, they're not doing anything that other governments haven't done, but it's wrong.

Another thing that will happen this year is that several capital corporations will be set up. In my opinion, the prime motivation is to hide the real deficit, so the deficit will be reported at \$6 billion instead of \$10 billion. You say here, though, that you think that's a good idea, or at least you like separating capital from operating, which is one thing, but setting up the capital corporations—I guess my question is: Have you had a chance to look at the concept of the capital corporations and do you have a comment on those?

Mr Whitehead: I would answer that, in fact, again by reference to my accrual accounting, you could set up a capital corporation to—let's take a concrete example, if you will, of investing in roads and collecting the tolls and whatever. The value of those roads and the value of the debt outstanding

would be netted against the budget, so it would have to be recorded in each budget. If in fact the value of your roads went down and you still had all that debt, even in those crown corporations, that would be reflected in your deficit for the year and the government would have to record that the value of the debt outstanding had been reduced. So it would be captured under an accrual accounting basis.

Mr Conway: I'm just a substitute to this committee, but I must say I found your presentation very good, very helpful, very focused. Just one complaint, to be perfectly honest: I get angry, quite frankly, and I become furious with financial institutions that come to me these days and talk about the need to restrain expenditures—which I agree with, by the way—and then the only example we can all find is the social assistance account.

Mr Whitehead: No, I'm sorry—

Mr Conway: But it's the only one cited. I know you understand that the net has to be wider. I've been muttering here all afternoon at some of these bank presentations, because I've just watched the conclusion of the Charles Keating trial in the United States and I've just listened to the Blenkarn hearings in Ottawa about what I'm doing as a federal taxpayer to underwrite the outrageous misconduct, apparently, in some of these financial institutions, provincially and federally, licensed and non-regulated. I probably don't want to know how many hundreds of millions of bucks the unemployed in my constituency are going to have to pay to clean up the mess that has been created by incompetent governments and financial institutions, some of them even class A chartered banks, whose behaviour over the last five years has been greedy, immoral and, more important, is going to cost the federal taxpayers of this country a lot of money, I suspect.

I'm sorry for kind of going on about that, because I think your presentation is very good.

Mr Ward: Don't be sorry. What do you think about that?

Mr Conway: Maybe you want to comment, because I really like your point about an expenditure control. I sat in a government for five and a half years and I think your point is very powerful. In our politics, which in the last generation has become a potlatch of special interests, when well-financed, powerful people barking shamelessly with very weak cases continue to get funding from local, provincial and federal governments, boy, do I want to see your effective expenditure commission.

One of the questions I have for you on that, given the reality of politics, particularly as practised by an upper-middle-class élite, is how do we make this commission actually have the effective bite you and I desperately want it to have?

Mr Whitehead: Can I preface my remark by saying we aren't class A banks; we're schedule A banks. There may be a big difference.

Mr Conway: Apparently there is.

Mr Whitehead: I would also, out of duty, argue that we have not been immoral, scandalous or greedy. We have, in some cases, been foolish.

Mr Conway: When I think about the 2,300 people who are going to get their pink slips from—is it your bank?

Mr Whitehead: It's actually 2,500. It is, yes.

Mr Conway: The national news tells me that some of that has to do with your involvement with some of the really high-octane commercial real estate speculation of the 1980s, which we're now told was transparently dangerous from the very beginning. But that's probably unfair.

Mr Whitehead: I fundamentally disagree with that as well, even if I might be one of the 2,500. Who knows? But I think in point of fact that's not the case.

I would also want to emphasize that when I raised the social assistance portion of the budget, I am most concerned about the perception that it's unfair or a waste of money or that there's widespread fraud. I mentioned, I think in answer to Ms Swarbrick's comments, the Diane Francis type of columns. I am concerned that there's a big perception out there that welfare recipients are not just down on their luck, they're actually ripping off the system. I don't want that to happen. I don't want to get a mean society where it's divided between the haves and the have-nots and there's a war over the budget. I would be much more concerned to show that there's not widespread fraud, to reassure people that there isn't widespread fraud.

I'd be more concerned about the other areas of expenditure. Health care is the one that comes to my mind, and I keep hearing horror stories about health care expenditures.

How to give such an effective expenditure commission the clout is to give it a tight time frame, give it free run and give it publicity, so when its report comes out, it's short, it's succinct and it's readable for the average person. It's not hidden away, it's not filed somewhere, it's not vetted first by some ministry, but it's got to be out in the public. That way, it cannot be swept under the rug.

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Mr Conway: I agree with you. I think it's a very good recommendation. I become angry on the subject of social welfare because I've been in politics now for 18 years and most people I know believe there is widespread abuse on that account. I happen to believe that while there is some abuse, it's not nearly of the order of magnitude as imagined; quite frankly, it's probably, as a percentage, not nearly as high as some of the abuse and some of the corporate welfare that has been well documented by a number of people over the years.

As a practical matter and as a politician, if I'm going out, particularly in these environments, I've got a fairly high pain tolerance and it's becoming higher all the time. I think the weight of your presentation, the direction of your presentation, is very correct. When I look at what any government in this province is going to have to do over the next few years—I don't know why I would stay in the business of politics, but I intend to, because I guess I'm just that perverse.

Well, we laugh, and that's the easy response.

I come back again to the effective expenditure commission. It's 10 years ago that one of this province's leading business authorities, and a very fine fellow, Duncan Gordon, came to a health care panel where I was present, and he outlined a very compelling and a very credible effective expenditure commission for the health care sector. But he concluded his presentation by saying: "This will apply to 252 of the"—then—"253 publicly funded hospitals in the province. It does not apply to the hospital of which I'm chair of the

board." He went on to explain why, and it was a very compelling argument. You know, "Everybody else is abusing the system, everybody else is ripping off, but not me."

When I look at your presentation, one of the questions I have, I think very telling, is your calculation about the expenditure shortfall. I think you're right, as my friend from Scarborough has also observed. You're using that wonderfully felicitous Reagan phrase for tax increases: "revenue enhancements." Let's call it what it is: tax increases. Reading your presentation, it makes me believe we would probably have to look at a tax increase in the order of magnitude of \$1.5 billion in fiscal 1993-94, together with significant expenditure controls, to achieve the \$49-billion revenue figure. Correct?

Mr Whitehead: Not necessarily, but the numbers will bear that interpretation.

Mr Conway: So it's not unrealistic to imagine, with that kind of shortfall, that a tax increase of several hundreds of millions or perhaps \$1.2 billion, \$1.5 billion, might have to be considered as one of the options to make up that shortfall, if your analysis is correct.

Mr Whitehead: You could avoid a tax increase if you go with an asset sale.

Mr Conway: So you could do it all on the asset sale?

Mr Whitehead: You could. There's Ontario Hydro still sitting around.

The Chair: Mr Conway, I've got to cut you off. Mr Sterling.

Mr Sterling: I'll try to keep it brief so we can keep moving along.

I too am interested in your discrepancy with regard to the \$2.5-billion shortfall. I guess you're reading in terms of the Treasurer's indication that in his 1992 budget he was shooting towards a deficit of \$8.1 billion for 1993-94; that was his prediction last year. What you're saying is that that prediction of \$8.1 billion is off, that the deficit is either \$10.6 billion or, in addition to any other shortfalls he might have discovered over the past, he's got to come up with \$2.5 billion in new taxes.

Mr Whitehead: He does have a couple of things going for him, which may surprise everyone. The government has instituted a number of expenditure restraints, and that will save it some money in 1993-94 over and above what its projection was of expenditures. They will have the \$1.2 billion, the fiscal stabilization grant, which will undoubtedly get folded over into 1993-94. And let's be fair to the government in the sense that how hard could it press the claim for that fiscal stabilization if it didn't include it in the budget? So they do have to include it in the next year if they have any hope of receiving it. If you add those two together, you're getting somewhere in the order of \$1.5 billion to \$2 billion, so on those two scores alone it's going a long way to getting back to that \$8.1-billion figure.

Mr Sterling: I'm intrigued by your expenditure control commission. I've recently read a few of the Fair Tax Commission reports, and it seems to me that when the Treasurer has asked the group to deal with property tax, for instance, it has said, "Property tax is unfair, it's inequitable, it leads to all kinds of problems and you should tax some other way," but they don't tell the Treasurer how to get that \$5.7 billion

or \$6 billion which would be required in order to replace property tax. Then I go to the report dealing with taxation of the poor, and it says, "People below the poverty line as determined by Statistics Canada should not be part of the income tax system," but they don't tell the Treasurer where he makes up that shortfall with regard to what is there.

My concern in terms of setting up any kind of expenditure commission is that, number one, you can't have in the room the people who are in a conflict-of-interest position; that is, if you get people who are knowledgeable of the system, usually they are defensive of the expenditures. We're going to see later this week, for instance, the university people come in and the teachers come in, all wanting more money. Have you laid your mind as to how you would formulate this expenditure commission so that it would give the public and the government the straight goods?

Mr Whitehead: In discussions I've had about it with my colleagues, one of the phrases I've used is a "flashlight," that a lot of government activities, as far as the taxpayer is concerned, are a big black box: Money goes in and somehow it comes out and somebody's benefiting, but it's hard for the taxpayer to know.

In the case of the Fair Tax Commission, what it's really doing is trying to reconcile competing interests, as you've pointed out. In a number of groups they've simply been deadlocked or only been able to come up with the comment that, "You should find the money somewhere else because this isn't a good tax." But in other areas they've done reasonably well. The retail sales tax group was one that did not seem to promise much opportunity for agreement, but it actually did come up with a consensus on a broad number of issues.

In the case of this effective expenditure commission, what I think really needs to be done is a flashlight. We're not talking about a broom to sweep away things right now; let's just show a flashlight so that the average person on the street can feel that people other than politicians and civil servants have looked at this thing and come up with as much in the way of savings as they can or identified the areas of savings as much as they can. There's just the sense that if the only people who get to see it are civil servants and politicians, then I think the average person on the street will not be satisfied that his tax dollars are well spent.

Mr Conway: Can you imagine a flashlight on the Dome stadium in the early years?

Mr Whitehead: "Flashlight" is an evocative phrase, I'll grant you.

Mr Conway: But using that as an example, I just wonder what that flashlight would have found and what we would have done about it. I know what we didn't do.

The Chair: Mr Carr, you've got time for one short question.

Mr Carr: I was looking at the amount we spent on social assistance 10 years ago, in 1982. It was \$2.1 billion. This year it will hit \$9.4 billion. One of the concerns I've got isn't that people who are on social assistance are abusing the system, but wouldn't you say one of the concerns is that what you can make on social assistance is now such that at the low end of the scale—I'm thinking now in terms of jobs, whether it's cab drivers or something where you don't make that

much—literally it's better for you to go on social assistance than it is to take a job? I'm thinking of Bill Clinton, who hasn't been known as a right-wing individual, who is now in the States, if he can get it through his Democratic Congress, saying he's going to link the jobs and welfare together. How would you suggest we do that, in order to get people on social assistance who can work back into the workforce?

Mr Whitehead: I don't have a good answer for that, I'm afraid. I've tried to work my way through Transformations a couple of times but haven't got all the way through. It did strike me at that time that they were really trying to grapple with the question. I'm not sure that right at the moment there really is a problem in terms of the social assistance being so high that it's discouraging people from taking jobs. There aren't many jobs out there to be taken.

Mr Carr: You mean at the low end of the scale?

Mr Whitehead: At the low end of the scale, yes. But I think that if it is a problem, it will arise in 1994, 1995 and 1996. I suspect the bigger problem you have is the overall expenditure level of the government and the deficit. That, with its unsettling aspect as far as business investment is concerned, probably prevents a lot of this job creation.

The Chair: I've got to cut you off now. I'd like to thank you for appearing before this committee. I see you sparked a little bit of interest on the left side over here.

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DRI/McGraw-Hill

The Chair: The next group is from DRI/McGraw-Hill, Mr George Vasic and Robert Fairholm. Welcome to the committee. We have 45 minutes. Out of the 45 minutes, if you can leave some time at the end, you'll have some interesting questions thrown at you. You may begin.

Mr George Vasic: Thank you. Let us introduce ourselves again. I'm George Vasic; this is Robert Fairholm. We represent DRI/McGraw-Hill, an economic consulting firm.

I know that you're hearing, as in past practice, several outlooks from several different people. What we are planning is trying to cut the overhead discussion—ie, those things you presumably are already familiar with—and get to the meat of it. What I plan to do is spend a few minutes on the overall Canadian economic outlook. After that, Robert Fairholm will talk about the Ontario side of things in more detail. There should be ample time left over for questions.

Essentially, where we see the world right now is that we are in fact in the initial stages of economic recovery. There appeared to be some stall in October, after the referendum, but the data we have available for November and December for things like employment, car sales, housing starts and the resale housing market showed that things picked up through the quarter and that in fact the brief revival we saw in the summer of 1992 was resumed as we closed the year. Also, the anecdotal evidence from retailers was that Christmas was not too bad, though I'm concerned that their expectations might have been very low after the last couple of Christmases.

You have in front of you a handout which details a lot of our numbers, but I suspect our forecast will be coming fairly close to the consensus number you've been hearing so far, in

that for Canada as a whole we're looking for about 3% growth in 1993 and 4% in 1994.

The thing you have to remember about this recovery is that as we go into it, while the recession itself may not have been extremely steep, it has been quite a protracted process and the cumulative effect of what is really nearly three years of recession, followed by stagnation, has opened up the output gap, in our view, by about 9.5%. That's a very large gap that will take a long time to close.

The other part of all this is that we are at this time involved in not only a cyclical episode but a structural one as well. I think you have to talk about the two of them separately. Let me talk about the structural one for a few moments first, because I think for the long term that's the more important one.

I think, contrary to some of the comments you may have heard earlier, the root of our present woes, in that we have a very slow rebound out of this recession, comes from the mid-1980s when productivity growth in Canada simply stopped. We believe the reasons for that are tied to the low Canadian dollar, which sent a very strong wave of corporate profits through the system by 1988 and perhaps gave management incorrect information as to how lean and mean Canadian business really was.

In the second half of the 1980s productivity in Canada grew cumulatively by 15 percentage points slower than it did in the United States. As you know, productivity is the key for our long-term welfare and standard of living. At that time, of course, we had policy measures which, in the short term, exacerbated that. We had higher interest rates as we pursued lower inflation. That appreciated the exchange rate. Furthermore, wages did not resemble the productivity performance we were having.

As a result, when we began the recession we had to address this cumulative cost problem within the context of a cyclical downturn, which is again very unusual. There's nothing to say that because a recession has started, we have a cyclical problem to address. It wasn't the case going into the last recession, but it certainly is the case through the last three years and it will be exerting itself over the next several years.

That 15% gap is the amount by which US productivity grew faster than our own. So even though we've started to see some productivity gains, the US is not standing still either, and even if we beat its productivity numbers by 3% a year, which we won't, it would take five years to close that gap. For example, last year, a year in which Canadian output grew 1%, our employment levels fell 1% and we had a productivity gain of 2%. That's very good for an economy that's virtually stagnant, but it shows you how far we have yet to go. This will be ongoing, and what this means, essentially, is that we will need more economic growth than we have in the past to make sure we get some job growth and to try to make some progress on the unemployment rate.

On the cyclical front, which is the other element, basically recessions are the net result of an imbalance between expenditures and incomes. Here in Ontario we were poised for a very sharp cyclical correction in any event, consumers and business alike, and, abetted by a very strong profile of government spending, all made the boom stronger than it needed to be and as a result we're heading for a much larger bust.

The disconcerting part of our present circumstance is that our progress in rectifying those imbalances to date has been relatively slow. Consumer debt loads and debt service obligations remain very close to their peaks and as a result haven't yet formed a foundation from which sustained and large-scale spending can occur. In addition, savings rates by consumers were very low entering this recession and have remained low throughout, and is not an avenue which consumers can use to make spending growth exceed their income growth.

On the corporate side, corporate profits, as you well know, have been decimated. Even though there is some rebound that we can now expect, in most cases, as a result of firms losing vast amounts of money now losing less as opposed to firms generating lots of new income growth, the fact is that profits remain extremely weak and corporate balance sheets are compromised.

One comment you hear a lot is that confidence is a problem. In our view, that is not the case. We believe confidence is not a psychological phenomenon but rather an economic phenomenon. If you look at consumer confidence, for example, it reacts very predictably to employment growth, inflation, interest rates and so on. We find the consumers are feeling about right given the economic circumstances. They are not so pessimistic that they're feeling worse than they ought to, given the economy, and therefore can't be viewed to be holding the economy back.

On the business side, we find that business is in fact quite optimistic, perhaps more optimistic than it ought to be. Our fear for 1993 and 1994 is that if reality falls short of that expectation, business spending might have to be cut back further. So the risks to our outlook remain on the downside of the growth rates that we've been talking about.

On the international front, something that is also not typical of business cycles is occurring, meaning that the international economies are not in the same time warp as we are in North America. In fact, the North American recessions began first and we are at a more advanced stage. Right now you've heard widespread reports about the European and Japanese economies being at various stages of decline and/or stagnation, and that will make an export-led recovery that much harder to get.

With everything in some sense evening out around the globe, we are not all moving in concert and thus anything more than a slow comeback from this recession is not possible. That means the US economy becomes that much more important. Through the last year or so you've heard quite a bit in headlines about the progress of Canadian exports, particularly to the US, and how that has been really the only engine of growth. Those reports are true. For example, the US economy in 1992 will have grown 2%. Our exports there are probably up 10%. That's a very good performance.

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However, what isn't said is that a lot of our exports are captive and occur between multinational firms, and the evidence seems to be pointing to the fact that exports and imports are much more tightly linked than they used to be. So while we're getting a big bang for our exports south of the border, we are importing a lot of goods, doing some work and sending them back, and what you're seeing is that our import numbers are also surprisingly strong.

This year Canadian imports in real terms will be up about 6%, with an economy that's grown by 1%, so the net contribution of exports is not nearly as substantial as you would think, given the export numbers you're hearing.

The Canadian dollar and interest rates: Just to summarize our view there, we see the Canadian dollar as still vulnerable to downside risk. We see it dropping through the spring for any number of reasons. These could include the federal budget and the subsequent round of provincial budgets, if not the upcoming election that is scheduled for somewhere in 1993 at the federal level.

Furthermore, the Bank of Canada is trying to get rates down, which means if there is strength in the Canadian dollar, we believe the bank will use that opportunity to lower rates and get a little more strength going in the recovery since its inflation targets are well under control and since of course there is only one party that really supports its zeal for zero inflation. That happens to be the incumbent government in Ottawa.

There will be increasing concerns about debt quality. This will keep our long-term interest rates perhaps higher than they ought to be. Concerns about the debt quality are of course rooted in the fact of the volumes of debt that we are issuing. On this note—I know it has been said before, but it bears repeating—the provincial finances—and Mr Fairholm will be talking about that a little later on—do resemble the federal situation in the mid-1970s in the sense that though interest payments as a share of revenues were 11 cents or 12 cents on the dollar at that time, the deficit got very large and started to snowball the debt growth.

The problem Ontario faces right now is that the debt growth is 20%, and if we do not bring the deficit down quickly, that debt growth will remain at 20%. That will have the usual impacts on higher interest payments, thus squeezing out the kinds of spending that we all would like to be able to make in the future.

The lesson at the federal level—and remember this started in the mid-1970s, from what was the best fiscal position in 60 years—is that you have to do whatever you can to nip it in the bud. On this note, we would suggest that one should go so far as to undertake tax increases to put the deficit on a firm downward trajectory so as to slow the debt growth, slow the growth in interest payments. At the same time, the major recommendation, of course, on the spending side would be that spending growth be limited.

The previous speakers talk about an effective expenditure program. I think it is something we would echo and is something to which virtually every person on the street would say yes. The problem is not how much we spend; the problem is more how effectively we spend. We need to do more to look into how we're spending the money, as opposed to how we're getting it.

However, that will take time, and large savings from that certainly will not occur in the next fiscal year. In the meanwhile, we suggest that tax increases should not be dismissed out of hand, though they will clearly exert a negative impact on the economic recovery.

If we are in recovery, and I know this is a question to many people, it will serve to slow that recovery, but I think given the choices and given how quickly this can snowball, it

is a lot easier to make that choice now, even in this particular economic circumstance, than it will be several years down the road. I know some of you may not be here at that particular time, but I think the entire picture will look a lot better if action is taken sooner rather than later on that front.

In terms of translating that into the Ontario outlook, let me turn it over to Robert.

Mr Robert Fairholm: Let me just re-emphasize some of the points George made, because many of the features of the Canadian outlook are re-emphasized for Ontario.

In particular, it's important to note that there has been very slow output growth over the last year and a half. In terms of employment, indeed, we've had declining employment, especially on a year-ago basis, over the last several years. There are a number of factors George mentioned for Canada which explain this. The important thing to note for Ontario is that the situation is even more exacerbated here. We have a very slow output recovery going, but it has not translated into employment growth.

One of the reasons for this is due to the huge increase in our unit labour cost from 1986 through to 1991. If we compare Ontario's unit labour cost versus our trading partners, in particular Michigan's, we can see that there was close to a 40% increase in our unit labour cost over that time period. Importantly, only about half of this increase was due to the increase in value of the Canadian dollar. The rest of it was an increase in Ontario's unit labour cost relative to Michigan's unit labour cost in home currencies. Unit labour cost, for those of you who are unacquainted with that economic term, is wages per employee divided by productivity per employee or output per employee.

The situation George mentioned for Canada is even worse for Ontario over that time period. This has several implications for Ontario. For one thing, when you have an increase in unit labour cost relative to your trading partners, you tend to lose a share of total trade, so we have a direct impact upon output. Also, one of the things that companies do to combat this problem of the rapid rise in labour costs is to cut back on employment, and that's one of the reasons why we've had such poor employment prospects over the last year or so.

I should also emphasize that even if we took 1991's Ontario unit labour cost and put the Canadian dollar at 78 cents, which is roughly where the Canadian dollar is today, we would still have had this poor situation and the unit labour cost in Ontario would have been out of kilter, by about 35%, relative to Michigan.

Something fundamental has occurred in Ontario which will affect the economy over the next several years. We're going to have a rebound in output, but we're not going to have much of a rebound in employment. This will be particularly true for the goods sector, and especially for the manufacturing sector, of the economy.

I should emphasize that not everything is doom and gloom for the Ontario economy. There is recovery occurring, especially in some of our important trading partners south of the border. Ontario trades to a considerable degree with Michigan and New York state, as well as Ohio and Indiana, and we're seeing signs of improvement there which will help the Ontario situation. Also, of course, there is the decline in

the Canadian dollar from the 1991 peak to around 78 cents now. As George mentioned, further decline is expected during this year. This will also help Ontario's competitive position.

Importantly, we see the auto sector as one of Ontario's big winners over the next couple of years, in particular this year. This success will be largely contributed by Chrysler. Chrysler's LH line has, by all reports, done quite well and the prospects are that it will be gearing up quite quickly, up to about 300,000 units by 1994. This will be a major source of growth for the auto sector. Over the 1991-95 period, Chrysler will account for about 63% of Ontario's increase in the number of units of motor vehicles produced. For this particular year, they will contribute roughly all the increase. That's because for GM the shutdown of the Scarborough plant will offset increases in car production in Oshawa, and for Ford we see roughly the same number of units produced this year as were produced last year.

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Also for the auto sector, we see that there's a major investment by Ford, \$2 billion, to switch over its Oakville plant to mini-van production from the Tempo and Topaz that it is producing currently. The mini-vans have been one of Canada's success stories. We produce a large proportion of North America's mini-van production. This would be underscored by Ford's producing of mini-vans here in Ontario.

The Oshawa 2 car plants are still at risk, but in your term, everything seems fine there. There's a possibility by mid-decade that one or two of these plants could be shut down. GM certainly has still at least two plants that are extra capacity and it's not clear at this point how the chips will fall. If it's strictly on cost per vehicle, my understanding is that we have a comparative advantage, but unfortunately it's not necessarily all determined by economics. We have certain advantages in that we produce a higher quality vehicle and the costs are lower, especially at 78 cents a dollar, but there are political considerations also, whether the United States has allotted the GM shutdowns to date, and it's not clear how politics will start entering into this.

As far as the auto sector goes, we see that as a good engine of growth for Ontario in 1993 and over the next several years. If anything, when we put together our numbers in the fall for the Ontario transportation equipment sector, which you have a copy of, we were unduly pessimistic. We have fairly strong growth, but indications are that with the success of the LH line that growth could indeed be even stronger than what we originally forecast.

Another area where we see rebound in the economy is on residential investment. We see a rebound in housing starts, which will of course lead towards further increase in the residential investment, which will help several industries in Ontario, such as wood and non-metallic mineral products industries.

Unfortunately, the non-residential investment is in a serious downward spiral and that will continue throughout 1993. There is an excess of office buildings in Toronto, a very high vacancy rate, so we cannot anticipate much of a rebound in the non-res sector for several years.

Importantly, another success story for Ontario is electrical products industries. There have been substantial gains throughout 1992 and we see that continuing in 1993. That industry unfortunately is buried in our tables in our "other

manufacturing industries" component, but for that industry as a whole it's doing very well and will continue to do well. This is part of the trend within Canada and indeed North America towards increased use of machinery, and we see certainly business investment continuing to be quite strong.

Some of the other strengths in 1993 we see in the service sector. We see a pickup in the trade industry, which is essentially the retail and wholesale trade group, and that should help stabilize that sector. In addition, we see that the communications industry will proceed to grow quite quickly. Certainly, the competition for long-distance phone services will spur that industry over the coming year and over the next several years. In addition, the transportation industry will be powered by the rebound in the goods-producing sector.

In general, there are a few good spots of growth in the economy. There are still some laggards; 1993 will be a year where we start to see some sustained growth in some very important sectors, but there will still be some drag in the economy from the lagging sectors.

In terms of the deficit, when I went through the numbers in last April's budget I came up with a number of close to \$12.5 billion, and then we started all the various accounting fiddles and asset sales and the hope for fiscal stabilization funds, which account for the differential.

In some sense, the actual deficit number is somewhat moot, because we can have another raft of accounting fiddles which could distort our view of what the numbers are, or certainly what the official numbers are. So it's important, from my perspective, to start off with about a \$12.5-billion deficit for the current fiscal year and to understand that it is not unusual for the deficit to actually worsen during the first year of recovery.

Since we've had very little recovery so far, we can almost think of 1993 as being the first real strong year of recovery. I would anticipate that we are going to see some further deterioration in the budget deficit for the coming fiscal year until the situation stabilizes and the deficit starts to come down, assuming no major change in policies.

In terms of changes in policies, I would certainly recommend that there be a combination of both revenue increases and expenditure restraint. If you look at the numbers, the Ontario expenditures have been rolling along at a very rapid pace over the last two years, well in excess of inflation. It's an obvious target to try to restrain the expenditure growth, but I don't see how we can do it just on spending restraint alone. We'd have to have revenue increases also.

In terms of revenue increases, certainly one of my favourites would be on the consumption tax side. On this side, if we—I know it's probably a dirty word for some of us—harmonize with the federal GST, that would be an obvious step to be made. I don't think that's enough. There's going to be no doubt of a requirement or need to increase the tax rate, as well as broaden the base, to try to bring in the revenue that will be required.

Also, I think another area where we can alter the revenue picture is by applying more user-pay provisions to various services, including higher tuition fees for education, parks, roads, for example, some way to match up the expenditures with further revenue.

Before I finish with revenues, I would, if possible, try to avoid another income tax hike, because once you hit a 50% marginal tax rate, there's a disincentive to work and an increased incentive to avoid taxes. It is not beneficial to keep cranking up the marginal tax rate. It is helpful to try to restrain it at 50%, and already we've exceeded that level. So I would try to avoid further income tax increases on the personal side. Certainly, the consumption tax is one area. You could think of combining that with a low-income supplement so that those who are less well-off are not too negatively affected.

On the expenditure side, if there is a move to increase capital expenditures, it has a number of benefits in the near term—it has a fairly high multiplier effect on the economy—and in the long term it tends to help growth productivity, so there are a number of benefits to capital expenditures. If you're going to introduce it, and, say, increase infrastructure investment, there should be some very transparent way to signal to the financial markets that these expenditures are going to be paid for, preferably by the user.

If you simply start trying to pump-prime the Ontario economy through higher infrastructure and investment, there's going to be a negative hit on your debt rating and you're going to have to pay a higher penalty through higher interest rates. So if you are going to proceed with capital expenditure, it should be very transparent that there are going to be additional revenues coming in to pay for these expenditures.

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In terms of some of the other areas, where you could alter your spending mix would be with respect to public housing. One of the reasons for the need for public housing is because of the policy that has been in place since 1973, I believe it was, for rent control. All the studies I have ever read indicate that rent controls tend to cause major distortions in the rental market and reduce the number of rental units over the long haul. To try to offset that and eliminate the need for publicly financed housing, it would be preferable to have removal of rent controls with some type of supplemental rent subsidy or supplemental rent assistance for those who are hurt by this change in policy.

In terms of health care, the latest numbers that I saw coming from the provincial government indicate that its budget estimates are pretty much on track, which I find something close to remarkable, since there was a minuscule increase in health care expenditures forecast in the last budget, and as per the midyear update, from what I recall, I think you were a couple of dollars below estimate. It's truly remarkable, the improvement that has occurred in health care expenditure, but we need a lot more of it.

There are always a number of horror stories that come out of the health care industry about excessive spending, about people who are going essentially on vacations paid by the Ontario taxpayer to tropical destinations for their various ailments. So I would suggest that although the improvements that have occurred in health care in such a short period of time are laudable, this has to be sustained. Health care is such a huge portion of expenditures that this sort of control has to be maintained to have any hope of turning around the deficit in the future.

In terms of education spending, it has been indicated that Canada is one of the worst countries in the world in terms of

value per dollar. An Organization for Economic Co-operation and Development study indicated that we spend an awful lot on education but we don't seem to get an awful lot for it. Although I'm not aware of Ontario per se, I would be very surprised if it was anything different here. It's not a question of spending necessarily too much on education; it just appears that the whole way we're spending is wrong, given the results we're having.

Obviously, some restructuring in education spending should be pursued. Some areas where I could see some changes might be, as I indicated earlier, not being an expert in education itself, to increase tuition fees but also increase access to loans and make larger amounts available.

Also, it would be useful to do either one of two things: Unbundle school board spending from municipal spending so that the taxpayer can see what the school boards are spending relative to municipal governments. My understanding of the situation is that school boards continue to crank up spending and municipal governments in general are fairly restrained in their spending, and that is one of the major reasons why the property taxes keep escalating. It is not so much municipal government but school board spending. To demonstrate or provide this information to the taxpayer, where the increased spending is coming from or where taxes are coming from, would certainly be helpful. Secondly, or in addition to that, we should try to restrain the school board spending. Huge increases in expenditures at this point in time seem to be somewhat unwarranted.

The Chair: Bob, if you don't mind giving some time, I see some of the members would like to ask a question here.

Mr Fairholm: Okay. I'm sorry.

The Chair: If you could give some time, it looks like just about three minutes and Mr Conway is sitting on his—

Mr Conway: No.

The Chair: Okay. Have you got a speech or just a question?

Mr Johnson: He always has a speech.

Mr Conway: Only an observation. What's said about the education account is quite stimulating. I just wondered if you really wanted to get creative and talk about the industrial-commercial assessment, that local wealth that allows certain patterns of local expenditure to be positively astronomical in some areas and not in others; whether you wanted perhaps not only to look at tuition but also at the way in which we pay our professors and our teachers relative to the Belgians or the Singaporeans and others. But those are matters for another day.

The Chair: Mr Kwinter, you've got a question?

Mr Kwinter: Mr Vasic, I just wanted to ask a question. In your projections you show the unemployment rate for Ontario in 1993 at 11.8%, in 1992 at 11.2%. Most of the other economists who have appeared before us have shown that the unemployment rate is going to go down. I'm just wondering why the discrepancy. You feel that it's going to go up fairly substantially.

Mr Vasic: Let me start off with an overall point. The reason for this is that there has been an unprecedented exodus of people from the labour force in this recession, for a variety

of reasons. Normally what happens is, when you go into a business cycle, employment falls but the unemployment rate doesn't actually rise by as much as you would think because a lot of people drop out of the labour force. In this cycle, the amount of people who have dropped out is much greater than it has been in the past.

If you go back to 1981-82, that might have added about 0.8 percentage points to the unemployment rate. In this cycle it's adding more than 2% to the unemployment rate. If you did it with the same what we call the participation rate as occurred at the peak of the cycle and neutralize that, we'd have an unemployment rate that was well into the 13s.

As job prospects, slender as they may be, start to appear, some of these people get attracted back. Most of them will get back into the labour force. In fact we expect long-term the rate will be at some point higher than it was going into this cycle. So you've got 2.2% by our calculations, nationally, to absorb.

You've got to remember you've got population growth and labour force growth of 1.5%. If you've got another 2% to digest, you've got to look at 4%, 5%, 6% rates of growth before you start getting the unemployment rate down in a more meaningful way, and this is separate from the fact that for a given rate of growth, since we have to have higher productivity gains, we're going to be getting less employment increases than we would have out of an earlier cycle.

Now for the Ontario, Robert, if you want to add to that.

Mr Fairholm: One of the features of our forecast for Ontario is that we anticipate that there will continue to be fairly strong net immigration to the Ontario economy, which will boost the source population, the adult population. Combined with that, we have fairly slow employment growth because of our labour costs being so out of line, as per what I was talking about earlier, and because we'll have to take several years to bring that situation more in line.

Mr Kwinter: Just one last thing on unit labour cost: Do you factor in the cost of our universal health care versus the United States, say, in Michigan, where they don't have that? Is that calculated in as a factor?

Mr Fairholm: For total unit labour costs for the economy as a whole, yes. That includes, for the United States, all employer payments for various things, such as health care.

Mr Sterling: All the economists are predicting that there is going to be some kind of recovery this year. Quite frankly, they did it all last year as well and they were all overly optimistic, some more than others. Do you think the Treasurer should or should not raise taxes of any kind if in fact a recovery and some consumer confidence is about to emerge? Should the Treasurer raise taxes?

Mr Vasic: We think we should. As I said earlier, if there's anything we've learned historically, it is that you've got to nip this in the bud. It's already a major problem. But if the debt growth is allowed to snowball, it is going to be harder and harder to do.

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Yes, it is clear that the forecasts a year ago were too optimistic about 1992 as it turned out to be the case. Still, we have to put forward what we believe is our best estimate for the future, and this is what it is. Certainly this may not be the

year to put in the major thrust of it, but the problem with that line of argument is that if you look at it through the 1980s, which was a period in Ontario of nearly unprecedented boom, and even nationally a very strong period of growth, throughout it there never appeared, in that seven- or eight-year expansion, a right time to do the job that was necessary. At some point you've got to start.

It may be difficult now but it will be worse later, and so we suggest that some measures of tax increases should start to come in this year, but obviously with greater force the following year. We can't do it alone on expenditures, especially in the short run. There are some big fixes needed on things like education and health care in terms of getting more value for the dollar in the kinds of spending that we do. But those big fixes are not going to be forthcoming in the next year or two, and we can't let this thing snowball out of control while we wait for these large thoughts. Perhaps the best thing that can come out of it is that the financial pressure forces us to evaluate those options because otherwise we wouldn't have.

The Chair: Okay. Oh, did you reply for the Ontario? Go ahead. I'm sorry I cut you off. I'm watching the clock all the time here.

Mr Fairholm: I would just reiterate what George said. We have to do something at this point because otherwise it will spiral out of control, and expenditures alone are not enough.

The Chair: Okay.

Hon Mrs Coppen: I have two quick questions. I, my colleague Mrs Harrington and our Chair, Mr Hansen, all come from the Niagara area, which has been devastated by the news of closures in our automotive plants, especially St Catharines GM. During these hard economic times, would you suggest that the government intervene? There's been talk in the community of the government even buying a plant, a foundry, for \$40 million to \$60 million. How do you see that helping or hurting our economy?

Mr Fairholm: Part of the problem with the auto sector at the moment is essentially in GM's lap. It has massive excess capacity and it has to cut back. There are going to be communities that are going to be very much hurt by this, but to go in and buy an auto parts plant would be very difficult, given their situation, to then sell it to them, because they have too much capacity anyway. They're trying to trim back. Then you have to question, who could you sell it to? You would essentially be displacing some other Canadian plant when you did that.

Canadian auto parts producers have been a relatively good success story. To try to go into that situation and try to essentially push over somebody else would not be a good long-term solution.

Hon Mrs Coppen: Another quick question: When you were talking about—

The Chair: I'm sorry. I've got to cut it off because it's 5 o'clock and we have another appointment here. I'd like to thank you for coming before the committee. I find it very useful the way you've laid out all your sheets here—agriculture, fish, trapping and forestry—which gives us an insight into all sectors of the economy. Thank you for coming before this committee.

CONFERENCE BOARD OF CANADA

The Chair: The next group is the Conference Board of Canada, Dr James Frank and Brian Hollohan. Welcome to the committee. You might be last, but we saved the best for last.

Dr James Frank: We have provided a fair bit of material here for you. I'd like to, if I could, move through some opening comments. There are some speaking notes in your handout that I'm going to just skim through to try to catch the highlights. We will be updating our provincial forecast—in fact, we're working on it right now, and we will ensure that the committee receives copies of that—and that will give you a very current outlook on Ontario. I suspect we'll have that ready for you within the next—

The Chair: Just to give you an idea, we're sitting the weeks of February 22 and March 8, so it's a while before we will be writing our report.

Dr Frank: We'll be sure to have that to you before then.

As in other years, we're really very pleased to have the chance to come and talk to this committee; the Conference Board has been doing this for a number of years. We're a leading forecaster in Canada, and I want to tell you just briefly about the organization because it's going to colour what we're going to say to you today.

We are a private, not-for-profit corporation. We're located in Ottawa. We do our research and our forecasts and so on for all of our members, and we have members in all sectors and all provinces of the country: government, business, labour and so on. Our mission is to be the leading private sector applied economic research organization. We're not a theoretical organization; we're interested in providing material to help people make decisions more effectively.

One of the things in our mission statement that I indicated to you in other years is that we try to be objective, independent and non-policy-prescriptive. I admit to you that that's a challenge at times, and as I listen to presentations before various committees, not only here but also in Ottawa, I am always struck by that. We're not here today to lobby on behalf of any particular point of view. We're going to try simply to tell you what we think is going to happen over the next year and hope that it's useful to you as you go through the next few weeks.

In the material I've given you is a copy of an article that appeared in the *Canadian Business Review* about a week or so ago and also the executive summary of the Canadian forecast, which will be released shortly—the government of Ontario has already received it—as well as copies of the remarks I'm going to make today on our consumer attitude survey executive summary.

We're more optimistic now than we have been for the last while about the outlook, and we expect that growth in 1993 is going to be somewhere around 3% to 3.5%, inflation at 2.5%, but the unemployment rate, as your previous speakers indicated, sticks upwards of 11% throughout the year. So it's not going to be a rapid recovery in terms of employment. The strength on the domestic scene does come from the consumer coming back into the market over the next six months or so as interest rates decline. That's why the headline on that Frank Talk article says that unless we get interest rates to continue to fall, this recovery is at some risk.

At the board, we have been doing a lot of work over the last few years on the value of the Canadian dollar. This is a central issue in this outlook, and I want to comment briefly on that. We've been telling the members of the Conference Board that they ought to try to be positioning themselves to remain competitive and be able to survive at an 85-cent dollar, that that is the most intelligent strategic positioning to put themselves in. We think that remains good advice despite what has happened to the currency over the past six or eight months.

There are a lot of factors that affect the currency, and I've listed some of them in those comments. But one of the risks we face over the next, let's say, six to nine months is political uncertainty and instability. We know at the very least that international investors worry about the value of their assets; in other words, the value of their bonds, when they buy Canadian or Ontario bonds. We've seen what can happen when political instability hits us in a big way, as evidenced through the period of the constitutional debates.

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We believe that wide spreads are going to have to prevail between Canadian and US rates in order to allow us to borrow the amounts of money we need to finance our existing government debt, which totals about \$600 billion, federally and provincially, and that's not counting crown corporations. The fact is that our overall provincial and federal deficits in fiscal 1991-92 totalled \$56 billion; they will total another \$55 billion this year. What that means is that we will have added approximately \$110 billion to our national debt in the past two years. Now, 20% of that debt is held offshore for federal debt and 40% for provincial debt. It's obvious that we're going to have to borrow a lot. Roughly \$56 billion is held offshore for the provinces and about \$90 billion for the federal. So you can see why the value of the currency is so important to foreigners: When they experience a devaluation, they lose asset values.

As we look ahead over the next while, we think the Canadian dollar is undervalued at its current value; we think it's worth something in the order of 83 cents as you move towards 1995. We are conscious of the difficulties in trying to estimate purchasing power parity, but there are reasons that the Canadian dollar should outperform the US dollar over the next few years. We can talk about those if you're interested.

When we look at 1993, trade is, if you like, the primary driving force, along with domestic housing and residential construction. We're expecting the US economy to grow about 3% this year. I just came back from San Francisco yesterday, where we spent a lot of time talking about the US outlook, and the general sense is that things are turning reasonably well in the United States, so that outlook, I think, is fairly sound.

Canadian exports we figure will grow somewhere between 5% and 6% this year. Housing starts in the US are turning around nicely. And of course auto and parts exports did reasonably well last year, and we expect we'll get positive growth this year and then again in 1994. Ontario will benefit from that, as will Quebec, of course, because Quebec is producing a new Firebird and Camaro line and Ontario is producing the new Chrysler LH products.

My colleague Brian is going to talk a little bit about the Ontario scene, so I don't want to spend too much time on that.

Natural gas, chemicals, electricity and other manufactured goods are the areas of strength on the export side. A lot of that comes from this devaluation we've had, so it is important to see that without the kind of reduction in our currency value that we've had over the past year, we certainly wouldn't be talking about 5% or 6% growth in exports.

The problem with all this is that unemployment stays high. Employment declined last year by about eight tenths of a point, say 1%, and it's a very serious situation. We have continually been frustrated by what's happened on the employment front, and the good news that occurred just last week on overall employment growth in December at least is a bit encouraging.

Manufacturing is a problem. I think you're all familiar with that. Employment dropped by 4% last year. We have been asked repeatedly by groups such as yourselves what the mix is between structural and cyclical. We can't answer that adequately. We don't know. Our suspicion is that there is a much more structural component this time than there was in 1981-82. Suffice it to say that it's going to take us until the end of the decade to get back to where we were in terms of overall employment in manufacturing in this country, so we have a serious shortfall that has to be made up there.

When we say the fate of the outlook lies in the hands of the consumer, we mean that pretty literally, because with weak employment growth and even the kind of growth we're forecasting for the coming year, the consumer continues to struggle. The debt question, disposable income that's devoted to interest-servicing costs, has been falling nicely. It's going to take probably another six months minimum until we get back down to levels that are in the 7% to 8% range, where people seem a bit more willing to take on additional debt. It's going to be a slow process, but it's moving along as you would expect.

We're only forecasting 2.3% growth in 1993. That's twice what it was last year, so if you want to look at it that way, it's a positive thing.

One of the surprises that may emerge here has to do with this issue of cross-border shopping. You may know this is not properly reflected in consumer spending in Canada when people shop across the border. I know from talking to retailers in Canada that there has been a sharp decline in cross-border shopping. This will effectively mean that people who were spending their money in the United States will be spending it in Canada, and that in itself could turn out to be a bit of a surprise for us. We, as forecasters, don't quite know how to handle that because there are no sources of good data on it, but it's one up side that I think is realistic.

The problem on the interest rates front is tricky. We had everything working very nicely until September and then, as I indicate in one of those articles, the interest rates moved up sharply. We had constitutional problems, we had Maastricht problems in Europe, and the rise in interest rates that occurred in a matter of about two months offset all the gain we'd had previous to that.

In our forecast now, we are explicitly assuming it will take us until the summertime to get back down towards the

rates we had in September of last year. In other words, it takes a long time. We're expecting now that there'll be another half-point decline in treasury bill rates in the first quarter of this year and another half-point in the second quarter. If you're sceptical about that, you've a right to be, because a lot of things can happen to slow that up or set it back. We certainly didn't anticipate what happened in September and October, and we're always chastened by those kinds of events. But that's the sort of interest rate outlook we have. It's only in the summer months that we flatten out and we see a very gradual movement upwards as we get towards 1994.

Something funny happened last year, and it had to do with real wage gains. In the recession, as serious as it was, and with the kind of growth that was occurring, we didn't expect to see much on the wage side in real terms, but it actually happened. The reason it happened—in retrospect, we can see this a bit more clearly—is that wage increases did not decline as quickly as inflation, so there were unanticipated gains in real wages and that helped to generate 1% growth last year. That's not a lot to write home about, but it was a factor.

We're not going to get that this year, we think. The surveys we're doing at the Conference Board and that we did this fall among all our members, on the pay outlook, suggest that the adjustments are going to be in the 2% to 2.5% range this year. That suggests to us that there won't be any windfall gain, if you like, that will surprise people in terms of purchasing power. We're only forecasting a very modest growth this year.

Governments of course are taking a position that's quite aggressive. At the federal level, they've proposed no increase at all this year. This will be the second year in a row. We will see what the provincial governments do as they get into that position themselves.

There are two areas of confidence that are important. I have some good news here for you, in a sense. I just got the numbers this afternoon on the phone after I left, so you can add to the notes I've got there, if you're interested.

In terms of consumer confidence, we had a setback in the fourth quarter. The index dropped about 10 points. We're not shouting much of an alarm on that front at this point; we think that's just an aberration. It had to do with interest rate problems we had during the period just prior to the survey being taken. We're hoping it will be reversed in the first quarter this year. The way things are turning out right now, I think that will occur. Nevertheless, we did have a setback there.

The interesting thing about Ontario is that it too had a drop: The index dropped from 80 down to 70. Ontario's got a fairly low index of consumer confidence, at least historically and also at the present time. Quebec is much more optimistic.

In terms of business confidence, the number that's going to get released over the next week or two is much improved over the third quarter. We had a setback there again and it dropped nine points. It's bounced back up now to 137, so we've recovered what we had before. The volatility that occurred in the fall around the Constitution, currency weakness, interest rate rises and all that scared people, scared business people. At least on the business side, it's starting to turn

around a little bit. I'm feeling a lot better than I was a while ago in terms of business outlook for the next year.

Just to give you an idea, in the fourth quarter of 1989 the index was 123, then it dropped to 78 in the fourth quarter of 1990; from 123 to 78. Then in 1991 we rose to 98, so it came up 20 points, and now we're 137. We've had three years of movement upwards in the fourth quarter, and I think that is encouraging in terms of what to expect.

On the business front, in terms of investment, we have really quite weak business investment. The only area where we have strength is in residential construction and housing. Keep in mind that corporate profits have really been beaten up over this recession. We had a drop of \$35 billion, peak to trough, and it's going to be a number of years before we get back to where we were before the recession started. All of this is going to work against a pickup in investment.

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One area that is strong, of course, is housing. You can see the numbers we're talking about there: something in the order of 200,000 starts in the country this year. With residential construction growing by 7%, that is one of the other bright spots.

Plant and equipment spending remains weak. You've heard this already this afternoon. It declined last year 11% and we forecast a decline in 1993 of 4%, so we're just going south yet with that. There's nothing really in the cards there. There are no major projects coming along. We are still assuming Hibernia will take place, but there are no big-ticket items that we can see in the near term that are going to lead to any turnaround in spending there.

The area where we have had business investment growing fairly well is in machinery and equipment spending. This has been moving ahead very nicely and of course is associated with trying to enhance competitiveness. We see that carrying on in the coming year.

Before turning over to Brian, I want to just conclude with a couple of comments on both the fiscal policy and monetary situation. When you look at government revenue over the next year, things are going to be a lot better than they have been for the past two years in terms of revenue growth. We're forecasting about 5% growth in personal income this year, and that's about twice what you had last year, so the base for personal tax revenues is going to increase. In other words, even if you hold the tax rates constant, you will collect more personal income tax revenues.

Total direct tax collections from provincial governments, including personal tax collections, will go up, we think, around 7% this year. That compares to a decline of 3% last year. So you can see how things have switched as you get growth in income and so on.

Improvement in corporate profits should lead to something in the low double digits in terms of corporate tax increases in the coming year; not tax rate changes, just revenue growing. Tax being applied at the same rate will generate more revenue for you.

I think overall then all governments across the country, not only the federal but all the provinces, will experience some relief on the deficit side over the coming fiscal year. That said, though, keep in mind that we still added \$110 billion to the national debt in the past two years. There's still

an issue there and I think it's going to be the toughest issue you face over the coming few months in terms of trying to resolve how to deal with it.

In terms of interest rates, as I said earlier, we're expecting another 0.5% cut this first quarter and then another 0.5% in the second quarter. Our forecast is pretty much on track.

We still see the Bank of Canada focusing on inflation and this is a very troublesome question because there are concerns, at least from our point of view, that inflation will tend to pick up because of the devaluation. I talked with you about this last year at this briefing. We're forecasting 2.6% on the CPI now. There's a lot of controversy around whether that will in fact occur.

What we are seeing in the markets, though, in the retail business is that the companies' profit margins are so severely squeezed that any opportunity to move prices and they're going to be taking it up. So as we move into the coming year, we see some tendency to move upward in terms of inflation.

With those comments, Brian, could you just touch on a few items specific to Ontario for five minutes or so and then we'll try to address any questions they have?

Dr Brian Hollohan: We estimate that the Ontario economy began its recovery last year, with growth of about 1.5% after two years in which declines amounted to about 5% in terms of real gross domestic product. Further, we forecast that there will be a slight acceleration in this growth for 1993, towards 3% next year, reaching about 4%. I think this is in line with some of the other projections you've been hearing.

This profile of about 1.5% last year and 3% this year is a lot different than the profile for the two years following the last recession. In the 1980s, the growth revenue, being 1.5% and 3% for Ontario, was 4% and 9%. So the growth we're projecting following this recession is much slower than last time.

A lot of the problems the Ontario economy is dealing with reflect some of its very strengths, some of the strengths that make it one of the largest, most diversified economies in the country. That is its industrial base and its market position, its location. The economy is facing competitive pressures in both of these areas.

We think, however, that there are improvements coming about and being put in place that will be responsible for the recovery we're going to see over the next year. A lot of the losses have been centred in the manufacturing sector and they're due, as you know, to high interest rates, an overvalued currency, weak market demand and, finally, this process of plant rationalization.

A lot of the rationalization and so on that's going on results from forces that are happening outside the direct economic sphere of the Ontario economy, in particular the integration of the world economy, the reduction of trade barriers and technological changes that are facilitating global trade in both goods and financial instruments.

It's important to note too that the rise in interest rates that's hurt the economy is also part of a global initiative. Most of the industrialized countries in the world have been trying to stem the speculation that's been sweeping through the construction industry, both residential and non-residential. At the same time, these countries are worried about accelerating inflation.

All of these global transformations that are occurring have forced the Ontario economy to adjust. These adjustments have been sudden and severe because they're occurring at a time when the economy is going through a process of normal cyclical streamlining.

Ontario business has been forced to downsize, sell off and close out non-core business operations. They've been upgrading their capital installations for machinery and equipment, and all this has been going on while market sales have been weakening and commodity prices have been softening as well. In these circumstances, the adjustment process has taken a severe toll on business profits and confidence but, more importantly, it has created severe dislocation in the labour market and hurt job prospects and consumer confidence.

It must be said, though, that the process of adjustment has set the stage for future improvements for the Ontario economy. We find that the Ontario economy has improved its comparative advantage by increasing productivity and lowering its unit labour costs. In addition, the economy stands to benefit from lower exchange rates, lower interest rates and the turnaround in the US economy. We believe that the third-quarter data and the fourth-quarter data as well support the view that the US economy is turning around and we expect it to grow about 3% this year and another 3% again in 1994. This is quite an improvement over the 1.8% growth last year.

Ontario exports, of course, are going to benefit from this turnaround. We expect auto production this year to increase about 6% or so, from about 1.2 million cars last year to about 1.3 million this year, still well below the recent peak of 1.5 million units. This production upturn will be reflected in our export numbers, and we expect growth in auto and part exports for 1993 and 1994 to average about 7% annually. Overall, we think exports from Ontario will grow about 4% this year in a US economy growing at only about 3%, so there is some implication there of an improved market share, largely coming about because of the weaker dollar. Jim has mentioned we feel that the Canadian dollar is slightly undervalued at the moment.

The lower interest rates, more stable prices and turnaround in net interprovincial migration can be expected to help the housing market. Total starts this year we think will grow about 11% to 78,000 units, up from approximately 50,000 units last year. This will translate into some pretty good growth in real residential construction spending, something in the order of 6.5% this year.

On the non-residential side, though, problems remain. You've just heard a little bit about that from the previous presentations here. There's poor cash flow, high debt levels, weak and uncertain market demand and excess capacity, excess commercial office space. These have resulted in 20% declines in non-residential investment in the province over the last two years. There's nothing new going to happen here this year. We expect growth of—actually the level should fall about 1% again this year before picking up somewhat next year.

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By contrast, though, the drive to improve our competitive edge has resulted in an increase in spending on machinery and equipment in the province. Over the last two years, a time of weak profit growth, real investment in machinery and equipment grew between 1.5% and 2% a year. We think this

pace will be maintained this year and probably pick up a bit next year.

The increased industrial activity generated by Ontario's export performance should translate into better labour market performance as well. We've already seen evidence of this. Over the last eight months, the Ontario economy has created, on net, about 5,000 jobs a month as opposed to the 10,000 jobs lost on average per month over the previous eight months. As employment continues to improve and confidence picks up, consumer spending should be boosted, but this will be a very slow process. We forecast household spending to increase this year by about only 2% before rising next year something in the order of 3.5%.

Taken as a whole then, the Conference Board expects the Ontario economy to grow approximately 3% this year and 4% next year. As I said at the beginning, while this growth is much more muted than the recovery that followed the 1980s recession, it doesn't threaten to undermine the gains we've made in terms of price stability. We expect inflation to stay in the neighbourhood of 2.5% this year and again next year.

Unfortunately, though, the sluggish pace of the growth doesn't allow the economy to return to its potential level of growth either. This gets reflected in an unemployment rate that will stay entrenched in the 10% to 10.5% range this year and next. In other words, the competitive gains the economy has achieved through this really terrible recession will pay dividends, but only slowly. It's hoped that these gains, however, will be more sustainable over the medium term.

That closes our remarks. If there are any questions, we'd be happy to answer them.

Mr Carr: I'll just do one quick one. I was interested in your question regarding the personal income tax. You said the revenue from that was going to go up by about 5%. The only trouble I've got in looking at it is that it will get us about \$700 million and in one quarter of this year the government has had to cut out that amount of expenditure, almost that amount, because of dropped revenue.

But I want to talk specifically about another source of revenue, which is the retail sales tax. I think the Treasurer thinks that if he increases it by one percentage point, he'll get about \$1 billion. Historically, that's what you get; \$7.8 billion is what we had budgeted from retail sales tax. The assumption has always been that with an increase of 1% you get \$1 billion.

Knowing the fragile state of this economy, if the Treasurer was to increase it by, say, one percentage point, would he get that \$1 billion or would consumers say, "Aha, as a result of this, I'm not going to spend," and would he actually get less? What would your projections be specifically on the retail sales tax?

Dr Frank: I don't whether they would get a full \$1 billion. I suspect that they would come pretty close to it, because there are not many things that a person can set back any longer. One of the catches we've had here in the country is that the two areas you normally expect to see picking up quickly, with interest rates as low as they are, are housing and auto sales. Affordability, I don't think, in Ontario, downtown Toronto, has ever been higher, and yet it's not moving. It just suggests to me that the levels of spending are so depressed

it's pretty hard to cut them back any further. I suspect that you'd get that amount of money.

I think the key thing here is that regardless of whether you increase taxes or cut spending, it has in an economic sense essentially the same macro impact on the economy. You're going to depress the recovery, unless of course you're just translating it and moving it from one group to another, in which case you've got distributional issues to address.

What we have been finding in terms of the question, to go to your point, about confidence is that it seems very unstable. This bouncing around that I talked about, up and down, is something you can anticipate coming when there are setbacks on employment growth, for example, or interest rates moving in the wrong direction or budgets that come in with tax increases. People are feeling pretty vulnerable now. That's the concern you would want to lay on the table as to whether you can pull that off without having people just retrench further. It's a judgement call.

Mr Sterling: I've seen some polls by Angus Reid which suggested that the confidence of the consumer in Ontario was much lower than it was in, say, Quebec or British Columbia. It's somewhat surprising in Quebec, given what we've gone through in terms of the whole constitutional thing.

Given that, and the uncertainty with regard to a whole number and a host of issues and economic indicators—the dollar, the interest rates etc—our Treasurer still has to come up with a budget. It appears in real terms, as far as I'm concerned, that the deficit is probably going to hit at around \$13 billion, depending on how you calculate it or whatever. He says in his 1992 budget that he's at \$8.1 billion. That's what he was driving for in terms of the deficit.

How important do you view all the different factors? Consumer confidence is weak in Ontario versus some of the other parts of Canada. Therefore, an increase in taxation is further going to dampen consumer confidence. They're just not going to have the dollars to spend. If the sales tax goes up by one point, that's going to dampen some. Given all those kinds of factors, what would your advice to the Treasurer be? A little of all? Hold the line on the deficit as the first priority? Seeking a reduction or showing a reduction in the deficit? Holding the line on taxation? Given all of what you have in terms of your knowledge, what do you think is the most important message to get out?

Dr Frank: Not to be flippant, that's why you people get paid the big bucks, to make these difficult decisions, because you put your finger on all the issues that are on the table.

What we have observed historically is that at this point in business cycles, when your unemployment rates are so high and people are feeling so pressed—I think, at least if our outlook is correct, and even with 3% to 4% growth in the province, that it's not going to be strong enough to do a whole lot of damage to unemployment rates over the next six to nine months. People are still going to feel under a lot of stress and strain.

When you look at the record in Ontario with confidence, in the fourth quarter of 1990 the index was 76, in the fourth quarter of 1991 it was 66, and we've only gotten back to 70. There's no sort of buoyant turnaround in feelings. If you lay on top of that a sales tax increase or other tax increases, I

think you have to ask yourself whether you run the risk of causing people to pull back more, or whether they will have any choice but to pull back more. So the direction is, at least I would suspect, fairly clear.

On the currency side, I don't think there's much evidence among the general public that a depreciation along the lines of what we've had is something that adversely affects confidence, because I don't think most people see that as an issue. What drives confidence, in our experience, is interest rate movements, up or down, employment gains or losses, and of course issues of taxation because that's just another form of income change; if you get hit with an income tax increase, then obviously it's a reduction in your income.

I think confidence is shaky. It's obviously shaky in this province. We're just not getting the turnaround you would expect. British Columbia, for example, is 95; Quebec 104.

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Mr Johnson: Thanks very much for your presentation. You mentioned that the cumulative debt, that is, the collective debt of the federal government and all the provincial governments, is about \$600 billion.

Dr Frank: Yes.

Mr Johnson: You said that has increased by \$110 billion, due to debt interest, I would assume.

Dr Frank: No; Deficits of the past two years.

Mr Johnson: Okay; deficits of the past two years. That's good—that's not good, but it's good because that leads up to what I want to ask you.

If the federal government has a responsibility to transfer funds to the province, for example, the CAP program, and maybe it's several billion dollars, now whether the federal government encouraged that indebtedness or whether the province encouraged that indebtedness in order to finance programs, it's still going to be added to the cumulative debt of the country.

This is a bit of a political question, I know, but I'm looking for your opinion. Would you think it would be a good idea for the federal government to transfer these dollars to the province? They're going to have to manage it somehow. Otherwise, the province is going to have to manage it somehow. But I like to think that in the larger picture, all the provinces and all the people of Canada are indebted to about the same amount, and when it becomes necessary to pay off this debt, they will all do it equally. I like to think that those dollars that will be transferred from the federal government would cause that to be more equal in the province of Ontario.

I wanted to know if you had an opinion whether it was good or not good for the federal government to transfer these dollars that the province expects. You may say it's good for the province and not good for the federal government, but I just wanted an opinion.

Dr Frank: I think the fair answer to your question goes along these kinds of lines. In 1984-85, the feds picked up a \$38-billion deficit; the provinces picked up \$7.5 billion. The provincial deficits continued to rise up until 1987-88 and then they fell. The federal government was stuck at about \$30 billion and has been stuck at \$30 billion really throughout all of the 1980s.

In the case of Ontario, for example, the deficit in 1984-85 was \$2.6 billion. It was at 2.6 the next year and 2.5 the next year. So now we're at 1987-88 and the economy is doing really well, but Ontario's still running a \$2.5-billion deficit. In 1988-89 it was \$1.5 billion, and then you ran a surplus in 1989-90, at the same time, of course, as the feds were still running a \$30-billion deficit.

Regardless of your political persuasion, what this is saying is that your revenues are not keeping up with your expenses. You don't have to be an economist to see that. You also know that you've got to borrow that money every year somehow to finance this.

The government in Ottawa happened to be a Conservative government, and when it came in it was right after a recession, with a big deficit in hand. What it tried to do was move gradually out of it at the federal level. I've looked carefully at the fiscal measures that were in the budgets coming from Wilson in the first four years of their term and the measures that came in the latter four years. Essentially, the lesson that I learn from that, and this is when I'm coming to your point, is that the federal government could not address the issue and solve it itself because the spending growth was occurring in health, education and welfare, in the large envelopes at the provincial level.

After trying to deal with this in small increments, if you like, in the first four years, in the second four years they said, "We will do it differently." They will download it. That term has now become a bit more popular. It will go from the feds to the provinces. They will say: "Okay, you're the ones who control health, education and welfare spending and you manage those programs. Those are yours under the Constitution of Canada. You take care of that responsibility." So they restrained CAP, the Canada assistance plan, equalization and so on, as you're quite familiar with.

To go to your question of whether it is good or bad, let me ask you this: When the Ontario government says to the hospitals that they shall have a zero increase in their revenues or when it says to the municipalities that they shall have a zero increase in revenues, because they are trying in turn to go from the province to the municipalities and say, "You are the people who control the spending and administering the system," is it good or is it bad? I think, with respect, it's the wrong sort of question. It's almost as if what's happening here is that you've got to move this issue to the grass roots, in a way, so that people increasingly see that we as a society are collectively asking for \$55 billion a year more service than we are currently paying. We have to borrow that money from somebody.

The implications of borrowing it from ourselves at home are different than the implications of borrowing it from foreigners. That's why I emphasize that now we have a 40% provincial debt held offshore and 20% of the federal debt held offshore. That means that every year we have to earn more money to pay the foreigners in order to encourage them to continue to buy our debt, because if they won't then we have to raise interest rates even more to attract them. So to position the question of good-bad, right-wrong seems to me, as I've looked at it over the past decade, to put it in a game that we really can't properly play.

I was on a hospital board in Ottawa, for example, and I know what goes on. I know the pain that the hospitals had to go through to balance their budgets. But pushing it down to us as a board I thought was about the only way there would be any of trying to match revenues and expenditures to what the general public wants to pay. I can tell you we could have spent any amount the provincial government would have given us, and the provincial government would have spent any amount the federal government would have given us, so you see the issue.

Mr Johnson: Just in conclusion, is the debt shared equally by the people in the country?

Dr Frank: The debt of the federal government and of the provinces is held by the people in Canada, absolutely, but the issue you see is, who makes the decisions about the spending and the taxation that goes with it? Is it the federal people in Ottawa, is it you people here in Ontario or is it, you know, Jimmy Frank sitting on a hospital board? I think that's the locus of decision-making that will have to be in place in the 1990s.

I can tell you unequivocally that it's going to be a very difficult decade, because the deficits will not turn around easily at the provincial level. They did not before, and we have structural changes, as Brian has indicated, that are at least as significant this recession as the last one.

The Chair: We've run out of time there, Mr Johnson.

Mr Sterling: In that there isn't a Liberal here, could I just ask another question?

Ms Swarbrick: Yes, can we split the Liberal time then?

The Chair: You've just split it. It's quarter to.

Mr Sterling: Are you anxious to go?

Ms Swarbrick: No.

Mr Sterling: Could I just ask one other question? Because you had a—

Interjections.

Mr Sterling: Do you want to go first and I'll go second?

The Chair: Norm, they'll be out in the hallway, or do you want this on the record?

Ms Swarbrick: That'd be great.

Mr Ward: Once you start—

The Chair: The thing is, I had my time booked for 5:30. I've got somebody waiting for me and I never realized we went this long.

Mr Sterling: I think you should pass on the chair.

The Chair: You can meet him out in the hallway there over a glass of water. By the way, Norm's got his way. We're going to be in room 151 between 2 and 4 tomorrow. You can thank Remo for allowing us to go in there, and all the work that's Norm's done. It's 9:30 in the morning also.

Ms Swarbrick: At 9:30 we're in here.

The Chair: At 9:30 in the morning we're in here. I just want to get these fellows before they run off. I'd like to thank you for appearing before the committee. As I told them, they might have been the last but the best.

This committee is adjourned until 9:30 tomorrow.

The committee adjourned at 1749.

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Coppen, Shirley, (Niagara South/-Sud ND) for Mr Sutherland
Harrington, Margaret H. (Niagara Falls ND) for Mr Wiseman
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Mammoliti, George (Yorkview ND) for Mr Jamison
Swarbrick, Anne (Scarborough West/-Ouest ND) for Ms Ward

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Harris, Michael D. (Nipissing PC)

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Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service



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F-15

ISSN 1180-4386

Legislative Assembly of Ontario

Second Intersession, 35th Parliament

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Official Report of Debates (Hansard)

Tuesday 12 January 1993

Journal des débats (Hansard)

Mardi 12 janvier 1993

**Standing committee on
finance and economic affairs**

Pre-budget consultations

**Comité permanent des finances
et des affaires économiques**

Consultations prébudgétaires



Chair: Ron Hansen
Clerk: Todd Decker

Président : Ron Hansen
Greffier : Todd Decker

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Tuesday 12 January 1993

The committee met at 0942 in committee room 1.

PRE-BUDGET CONSULTATIONS

The Chair (Mr Ron Hansen): Good morning. We are going to have the hearings on the pre-budget consultations of the standing committee on finance and economic affairs. I would like to introduce our head table to our guests.

Mrs Beth Grahame: My name is Beth Grahame and I am the Hansard reporter with this committee.

Clerk of the Committee (Ms Tonia Grannum): I'm Tonia Grannum. I'm the committee clerk for this committee.

Ms Elaine Campbell: I'm Elaine Campbell from legislative research.

NOMURA CANADA, INC

The Chair: Good morning, Leo. Welcome to the committee. You're from Nomura Canada, Inc, vice-president and senior economist. You may begin. We've got until 10:15.

Dr Leo J. de Bever: What I propose to do is make a fairly brief set of comments and mainly talk to some graphs that are in the pre-filed evidence I've given you and then leave it up to you to give me a hard time.

The graph I'd like to start with is the one on the first page of the summary. It essentially recapitulates the situation thus far, which basically has shown a fairly shallow recession but also a very slow recovery compared to 1982-83.

I think there are a couple of reasons for that. One is that this time around, fiscal policy really wasn't a factor in terms of softening the blow, or not nearly as much as in 1982, and the reason for that is that the deficits that were run up during the last business cycle did not leave enough room to do much in the way of stimulating the economy.

The other factor that's clearly obvious, both in Canada and in the United States, is that during the last boom, because it lasted so long, labour costs got out of hand. So when it came time to cut costs when the recession hit, given the inflexibility of wages, employment got hit, which created a lot of confidence problems, a lot of unemployment and made the whole economy much more lethargic than it would have been otherwise.

The final factor is that both Canada and the US are involved in some sectors that have gotten a lot more international competition, and as a result we've gotten a number of sectors, raw-materials-related, but also sectors like autos, pulp and paper and steel, that just aren't growing the way they used to, because they're becoming relatively less important in the overall economy.

On the hopeful side, on the next page I show the cyclical behaviour of GDP per capita for Canada and the United States. It indicates that Canada tends to follow the US into recovery. It looks like the US is finally on something approximating a sustained recovery, and therefore I expect that Canada will follow suit. All the indications are that way. If

I had been here a month ago, I would have been less convinced of that, but the year-end economic statistics look very hopeful and it's now a question of getting follow-through. I don't think we'll see 50,000 or 60,000 jobs being created every month, but I think even the employment picture will look a lot more respectable than it has over the last year.

Ontario, being the province most closely tied in with the US, probably will benefit from this US resurgence more than some of the other provinces, and that's to make up for the fact that we got hit much more than the other provinces. In fact, if you look at the bottom of page 3, it shows the relative performance of Canada and Ontario. During the 1986-88 period, we clearly outperformed Canada on a growth profile. In 1990 and 1991, we got hit much more than Canada in general, but also much more than the original estimates indicated. I suspect that by 1993-94 we will start to outperform Canada again.

At the bottom of page 2, I have an outlook for inflation. What you're going to see is producer price inflation, which is mostly goods exposed to the foreign sector. Those prices are going to rise fairly dramatically compared to last year. You're going to see inflation rates of 4% or 5% there. That does not mean that general inflation's going to pick up to that point.

There is going to be some rebound in CPI inflation. The main reason for that is that certain products have essentially been sold below cost during the recession, because people were clearing inventory and because they drastically needed to cover whatever part of their fixed costs they could. As the economy recovers, that is going to stop and you will find that prices are going to rise a bit. But inflation is not going to be a big issue.

Page 4 shows you the conundrum we face, and I've mentioned this before this committee before. If you look at the bottom graph, which shows you the share of wages to net domestic income, this looks like a workers' paradise. Clearly, I don't think the man on the street would agree with that, and the reason for that is the top picture. Profitability is so low that any prospects for employment growth are fairly limited. This is the problem we face.

Maybe you saw the article in the Globe and Mail yesterday talking about the pursuit of productivity being the reason for the 10% unemployment decade. I think that is putting the problem in the wrong perspective. You can look at productivity two ways. Productivity means you can produce more goods with the same number of people or you can produce the same number of goods with fewer people, and depending on what perspective you take, you end up with a different conclusion.

I fought this argument in 1982, and this is what is so amazing: how quickly we forget. I was called very naïve at the time for suggesting that producing more goods with the same number of people was the correct interpretation of the numbers. This time around I think you have the same problem, that people just refuse to believe that. In fact, I think you are going to get that result. You are going to get more hiring and

a higher productivity, meaning a higher standard of living, once certain things get fixed. The main thing that needs to get fixed is profitability. No one is going to take on extra workers if there isn't any money to pay for them. The fact that profitability has sunk to such a low level is our main problem. In fact, you can see the close link between profits and employment on page 5.

Mr Norman W. Sterling (Carleton): Sorry. Can I just ask, on your profitability chart, what does the 8 mean, 8% of what?

Dr de Bever: That is the economy's profit margin, if you wish. The denominator is net domestic non-farm private income. What I'm trying to get rid of is some of the problems that confuse the picture, such as farming and taxes.

Mr Sterling: Is it 8% of investment?

Dr de Bever: It's 8% of net domestic income, effectively. A normal number for that is somewhere around 16. Over the long haul, that is what you would like to see for a decent profit performance. As you can see, it has dropped from that 16% to 8, so profits right now are roughly half the normal level, and that is a big part of our problem.

People on this committee are from different parts of the ideological spectrum, and I respect that, but you have to realize that at the end of the day no one is going to take on employees as charity cases. They have to be able to make money for whatever company employs them, and the situation right now is that there effectively are no profits: 8% is way too low to cover normal capital expenses.

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You can see on page 5 how the profitability and the employment growth tend to follow each other with a lag. You can see that with the exception of 1986, where we had some peculiar situations in the oil and gas industry, profits and employment tend to follow each other fairly quickly. That's positive because, as you can see, profits are heading up, in the sense that compared to a year ago profits look a lot better, and that would suggest that in 1993 employment ought to be heading up. But the main point there is that profits have to go up an awful lot before you have the kind of employment effect that will give you a drastic reduction in the unemployment rate.

Part of the reason that profits are not going up—it's not just wages. We talk about wage costs being high, but a lot of companies are still suffering from fairly high interest costs as well. On page 6, I show you what Canadian and US interest rates are going to do. Given our inflation performance, I would have expected interest rates to drop a lot further than they have and I think there is where we see the residue from some of the developments last year on the constitutional front and the internal divisions, the worry about Quebec separating, and, forward-looking, the worries about any problems we might have after the federal election, because people are starting to worry about stability at the federal government level.

Long rates have that same problem. The spreads with the United States are extremely wide. This morning they are 130 basis points. When you look at the fact that we should have lower inflation than the United States, or, at the very minimum, only the same level of inflation, these spreads should

be a lot tighter. I think there's a great deal of worry there that, financially, things in Canada are just not what they should be.

I should emphasize that Ontario is becoming a fairly big part of that picture. I am amazed at how the developments surrounding Ontario Hydro are getting international attention, how I get questions on things that a year or two ago no one would have asked me. People are worried that the deficits are not cyclical. I try to tell them that they are, and in doing so I often feel like a devil's advocate. I'm telling them, "Yes, there's a problem, but once the economy recovers, a large part of that deficit will disappear."

The Japanese and the European investors are very sceptical that that will in fact happen. They're hedging their bets. It's becoming very difficult to borrow money in Canadian dollars. Ontario just borrowed, but it borrowed in US dollars, because not only are foreigners worried about our fiscal policy but they worry that if we run into trouble we will devalue the currency and make them take the hit on the Canadian-dollar bonds they bought.

I'm trying to tell them also, on page 7, that the exchange rate outlook is for stability rather than further deterioration. I am basing that on the fact that our currency is fairly cyclical and that during recoveries it tends to be fairly good or behave fairly well. It is also true that the current level is probably more than fairly valued, meaning that at this level manufacturers should have no problem competing internationally. If they tell you otherwise, I think they are not doing their job.

The thing that really bothers investors abroad is what I show you on page 8, and that is the deteriorating trend in the current account balance, because ultimately your ability to pay back the money you borrow depends on your ability to earn income internationally, and that picture is not pretty. It shows that since 1985 there's been a continuous deterioration.

On the bottom of page 9, I show you how that breaks down. We run a surplus on merchandise trade, not quite as large a surplus as we used to, and that's in large part because the prices we get for some of our key exports are not what they used to be.

The bothersome aspect is that on services we run a structural deficit. A travel deficit is particularly worrisome, and it's related to the fact that we have a larger retired population having a tendency to spend a lot of time abroad. I think as the population ages that problem is only going to get worse.

The bottom line, which is services plus net investment income, shows another aspect of the problem; that is, because we've been borrowing to finance our current account over the last five or seven years, the interest payments keep on getting bigger and bigger, and that's hurting us. Every year we're going to have to earn more money on merchandise and service trade to make up for the fact that we're spending more money abroad on travel and on investment income servicing.

On page 10, another aspect of this whole discussion is illustrated. There is a lot of argument about the causes of this recession and the reason for its depth. One of the arguments usually trotted out is that free trade had a lot to do with it. I frankly don't think that is a tenable position. In fact, our surplus with the United States has maintained itself fairly well. Where we're having trouble is with non-US exports—and the US is having the same problem—in that we're not able to compete in some of the market that traditionally used

to be ours and where we're now getting competition from emerging countries.

On page 11, I switch to Ontario. The graph on that page shows you the ratio of employment to population of working age. In other words, if you look at an economy from a basic availability of labour resources, you have to start with the proposition that it's the workers, with the knowledge they have and the equipment they work with, who generate the output. This is the ratio that shows you what proportion of those potential workers we employ. It doesn't mean we can employ 100%. Presumably not everybody between the ages of 15 and 75 is going to be in the workforce, either because they have worked long and often are retired or because they are in university or in high school or whatever.

The two graphs we show here, Ontario and Canada minus Ontario, indicate one reason why Ontario on average does better than the rest of Canada: We have more people producing goods and services proportional to the population we have. It also indicates that, contrary to the last recession, when the rest of Canada got hit harder in terms of losing jobs relative to population, this time around it's been Ontario that's been hit pretty hard.

The third aspect shows, though—and this is something where memories are short—that yes, times have been tough, but they are in part a consequence of the fact that they were incredibly good during the period 1986-89, and in terms of the economy being able to produce jobs, we're just back to where we were in the bottom of the last recession in terms of the ratio of people employed relative to the available population. It's good to keep that in mind, because sometimes we think, "Things are so awful, they've never been so awful, and they're never going to look up again." I don't believe that for one moment, and I want you to keep that in mind.

On page 12, I have the behaviour of employment in various sectors of the US economy. One point I want to leave you with is that employment in Ontario manufacturing is not going to be any higher in the year 2000 than it was in the year 1990, than it was in 1980. It's going to be the same number over that entire period because whatever gain we make in terms of creating more output is going to be eaten up by the fact that in that sector you're not going to need as many workers because productivity is rising. That does not mean that overall employment growth is not going to be rising. Employment is going to be shifting to services, which are much more labour-intensive, and our overall increase in standard of living is going to come from the fact that we are able to spend less resources purchasing goods from manufacturing and that leaves us more money to spend on services, where the shift in demand is occurring.

Manufacturing in Ontario right now is in a fairly weak position in a number of key aspects. I already mentioned pulp and paper. Steel is another one, and I think autos are going to be a liability. You may not think that is going to be an issue, but I would warn you that, long term, it is going to be an issue. Think about it this way: We have 20% of the productive capacity in automobile assembly. It's a declining market in the sense that it is not going to grow as fast as the overall economy. So instead of being a boon to Ontario, which it was in the 1960s and 1970s when it was an expanding sector, it now is becoming a drag on the economy. So we're going to

have to find a way to lessen our reliance, I think, on automotive production.

Again, it has nothing to do with free trade. People are saying, "We're going to see a lot of these plants disappear to Mexico." But look at it from a continental point of view. The market is emerging in Mexico. Given some of the advantages in Mexico, why wouldn't you locate the next plant in Mexico rather than in a market that has a lot of excess capacity? I would warn you, though, that this Mexican thing is way overblown. The average productivity level of the average Mexican is just—essentially, he is justifying his wage, at least at current conditions. So I don't believe for one moment that NAFTA is going to make all that much difference to us. In fact, if low wages were the driver for investment, then the Maritimes should have the highest rate of investment in Canada, and it clearly does not; it has the lowest rate. So there must be other factors that make up for it, and I think some of the basic amenities—the infrastructure, the availability of skills and complementary services—are very important there.

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I don't want to say much more, except that the last 12 months have taught me two lessons. One is that we don't know as much as we think we do, and I'm referring there to the fact that I think we were all surprised that the final estimates of what happened in 1991 were substantially different from what we thought had happened, and as a result a lot of the forecasts for 1992 were way off base. That's an occupational hazard for a guy like me. I'm not apologizing for that, but it's a fact of life.

The other thing is, and it's equally important, we don't seem to remember some of the things I think we do know with a certain degree of accuracy, and I'm referring there to this whole 1982 story. I was called a lot of names for suggesting that this was not the end of the world in 1982. Maybe you don't remember, but there were forecasts made in 1980 of 40% unemployment for secretaries out there by the year 1990. I was working at the time on something called the Ontario task force on microelectronics and I was called a lot of names by some people in the union movement who argued that microelectronics was going to cause mass unemployment, particularly in areas like secretarial, because everybody was going to be replaced by machines.

That just isn't going to happen. You're going to find an increase in the standard of living, if we are able to get around the fact that you have to create conditions where companies are in a position to hire people. You have to create profitability before you can start thinking about increasing employment, and that's I think the key dilemma you face trying to make our labour markets more flexible.

I'm not arguing that you should give employers a free ride and just make them earn any kind of profits that they would desire. What I'm suggesting is that we should create incentives to negotiate smarter contracts, contracts that do not force the employer against the wall when he's forced with a profit squeeze, that allow unions to retreat with grace or to take somewhat less in income in return for employment security. We just don't have those things in place, and I think that was a large reason the recession was as deep as it was and as many jobs were lost over the last two years.

That's it.

The Chair: Okay. Looking at page 12, from 1980 to 1992, it looks like stress tests I had at the doctor's about a month ago. We'll go on to Mr Phillips with the first question.

Mr Gerry Phillips (Scarborough-Agincourt): As usual, I really value your opinions. One question I'm interested in is, what implications are there for us in terms of borrowing our finances in foreign currencies? What's the upside to that, what are the advantages, and what are some of the things we should worry about? Just the \$2.5 billion to \$3 billion in borrowing today, I gather if the Canadian dollar strengthens it's good; if it weakens it's going to increase our costs. Are there any, as I said, long-term advantages or disadvantages to us?

The second part of it is whether you had any comment on the implications to the Canadian financial community on what looks to me like shifting the organizations that handle our debt financing to out of Canada and to a more global base.

Dr de Bever: I think both decisions are sort of forced on us, because it is not economically feasible in terms of interest cost to get these kinds of deals done within Canada, and if you're going to go abroad, then you have to have the Goldman Sachs of this world take a bigger role, because the Canadian houses just don't have the clout in London, Tokyo and New York to get these kinds of deals done.

On page 14 of this document I show you what has been happening to borrowing by both the federal and provincial governments, and it is very disconcerting that the proportion of borrowing done by the provinces abroad has risen to over half. It's now more than 60% of the total that they have to borrow. In addition, of course, it's very disconcerting that the total amount being borrowed by the provinces has gone up so much.

The problem with that from a cost point of view is that if you become what they say is a familiar name—and Ontario has become very familiar lately to international investors—the premium for being able to float additional debt goes up. We saw that. Ontario, I think, is borrowing money at 79 basis points over the US Treasury's. BC was able to do it for 48. The reason for that is that after a certain point, from a diversification point of view, people don't want the paper in their portfolios any more because they already have so much of it.

Then it becomes a chicken and egg. Your interest costs go up, making your deficit go up, which then makes your interest costs go up because people worry about your debt. It's a vicious cycle that can only become a virtuous cycle if somehow you manage to cut through that and get yourself lower interest rates and lower deficits. So there are serious implications.

Mr Phillips: Foreign currency, too, I'm interested in.

Dr de Bever: Oh, the foreign currency part. Sorry, I left that out. The cost of that depends on how you do it. I understand that a lot of this debt gets swapped back to Canadian dollars, meaning that the effective rate the government borrows at is not the US Treasury's plus 79 basis points; it's the US Treasury's plus 79 basis points plus whatever the cost is of swapping it back into Canadian dollars. You can do it a number of different ways. I don't know how Ontario did it in this case, but you can insulate yourself from the currency impact at a price. In other words, the price is effectively the differential in interest rates in Canada and the United States over a

longer period of time. Some institutions do not swap back all of the coupon payments and all of the principal, because it's expensive; some of them do. It depends how you do it. If you do all the swapping—100%—back to Canadian dollars, your cost goes up but you have security; you're insulated from movements in the Canadian dollar because that risk has been assumed by a foreign institution. If you don't do it, if you only swap part of it back, then you have exposure to currency movements. If the Canadian dollar goes down, then your cost of debt goes up. I don't know in this particular case how it was done. I understand that at least part of it was swapped.

Mr Phillips: Have I got another minute or two?

The Chair: You've got another 30 seconds.

Mr Phillips: One of the strengths of Ontario has been its financial community. I think we've thought we are a world-class financial community, and that's something we're going to try to develop. The signal that we have to go outside of Ontario to float something like this is concerning to me on the surface, that we're sending almost a global signal that we can't do it here in Ontario. Should I worry about that, or is it sort of irrelevant?

Dr de Bever: It's a fact of life, given the kind of amounts we're trying to get done. If you're talking about doing \$500 million a couple of times a year, I think our institutions could do it, but you have to reach into an awful lot of pockets to get \$3 billion done. The only people who have access to those kinds of pockets are the big international houses. In fact, there is a risk that has arisen over the last few years with the rise in provincial and federal deficits combined. The risk is that we become one of the currencies people like to take a shot at, which makes us more vulnerable over time. I think that is as much a risk as the fact that it's not getting done by Canadian institutions.

You shouldn't exaggerate that, because the leads are foreigners but there are Canadian houses that are comanagers. But the facts of life are that a large part of this particular issue was done in the United States and you need access to the US houses to do it. We just can't do it.

The Chair: Okay, we've got to go on to Mr Sterling.

Mr Sterling: I found your brief very interesting, as I did our conversation immediately preceding your brief. Putting those two together and some of the evidence we had yesterday in front of this committee—we had someone tell us that we'd lost about 15% in the last part of the 1980s in terms of productivity vis-à-vis the United States. What would our loss of productivity be vis-à-vis other industrialized countries? You say the United States has difficulty competing offshore. I assume, therefore, that we have lost even more than 15% in the latter part of the 1980s in terms of productivity.

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Dr de Bever: It depends in what sectors and against what countries. I would say we probably have lost a lot of competitiveness vis-à-vis the Far East, although there are offsets. We lost productivity relative to Taiwan in electronics, but lately both Canada and the United States have been gaining it back. In my profession you need a lot of hardware to do the kind of analysis you do. The products that were used in the upgrades were all North American; they were Canadian and American.

The products they replaced were Taiwanese. There's a message there: If we set our minds to it, we can create the products at the price and of a higher quality than some other nations can, so it's not something where you can say that it doesn't matter where you are, that you lose competitiveness.

We have lost competitiveness in sectors where we didn't pay attention. Steel is one of them where we lost competitiveness relative to the US and relative to the Far East because we just didn't do anything. We let the devaluation of the dollar in the early 1980s carry us. Profits didn't look too bad so we didn't do much in the way of upgrading our situation, and as a result we did lose competitiveness, measured in the way of unit labour cost.

I would say that our biggest problem is in two areas. One is the emerging nations in the Far East. The other problem really has nothing to do with productivity in terms of being able to produce so many tons of something per worker or per man-hour; it has to do with the fact that there's new supply coming on. You look at Inco, Falconbridge: People in the metals markets are having to compete much harder than they used to with supply from the former Soviet Union because, instead of funnelling their supply into their defence industry, they're now selling it internationally. So it's a different source of losing competitiveness.

Mr Sterling: One of the things that I think you said in your brief to us today, and what I've gathered, is that the low productivity in the latter part of the 1980s and the relatively high rise in wages and the loss of employment during this recession have resulted basically from those people who have fairly good-paying jobs really being too greedy. Is that a blunt statement of the fact?

Dr de Bever: That's basically it. The way I usually put it is that if all of us had taken 5% less in terms of earnings, we probably would have 3% or 4% more jobs than we have now; it's that easy. You would have the same wage bill but it would be distributed over more people, so on average more of us would have jobs at a somewhat lower rate, but we probably would make up for it in terms of not having the stress level that a lot of us work with because of fears that we might be next.

It's that kind of psychology. All of us are out for number one. You're not going to change that. But you have to create an environment where you induce people to be not quite as greedy, or at least leave themselves a way out when times turn bad and it becomes obvious that this greed, whatever you call it, was just not justified. That's what we're lacking.

Mr Sterling: I guess what you're saying, therefore, is that the labour policies of the governments of Ontario and Canada should be changed. We've just come through a very tumultuous year in terms of strengthening the power of organized labour, those who already have. So I would assume, from what you're saying, that the government has gone completely in the opposite direction in strengthening the hand of organized labour, those who already have, to get more. It would have been more logical in terms of what appears to be going to weaken their hand.

Dr de Bever: It all depends on what kinds of unions you're dealing with. It used to be that a good union leader was the guy who got you the biggest raise. I would maintain

right now that he is probably one of the dumbest guys around. The smart union leader in the 1990s is the guy who gets you the most flexible union contract, the one that leaves you the flexibility to take when there is money for the taking but allows you a graceful retreat when times are bad. I think that's where the problem is.

Unions are only bad from the standpoint of the employer if the union fails to keep pace with what is happening in industries and is not willing to cooperate in terms of making employment patterns more flexible and shifting resources around so that the aggregate pie keeps on growing. I think that's where a lot of unions have made mistakes. Look at Algoma: Algoma never should have happened, because it's clearly an example of old-style union bargaining.

What you have to have in the future is much more flexibility, because it's going to be done one way or the other. The way I see it being done now in sectors where there isn't that flexibility is that people become unemployed and end up taking jobs elsewhere at a much lower level than they were earning before. The overall friction would have been a lot less if they had been smarter and started to throttle back when there was still time to save the corporations they were working for before.

Ms Margaret H. Harrington (Niagara Falls): I really appreciate your brief. Certainly I think it's worth a couple of weeks of a university course.

You made some interesting statements. I just want to follow up on a few of them. I did appreciate your saying that labour should be more flexible and treated with grace, a different attitude, the things you were just mentioning to Mr Sterling about cooperation, a different psychology and working together, because we can't have that unsustainable type of growth, I would agree with you, that we had during the 1980s. We need stability and partnership going ahead.

Dr de Bever: Right, but that has to have real content; it can't be just lipservice. That's where I often find things a little shallow. I would be a lot more comfortable if a lot more union leaders had a better understanding of the dynamics that drive their industries. I realize that sometimes the public persona is different from what they really understand and what's going on, but I think that's what a large part of the problem is.

Ms Harrington: They need the knowledge, and therefore they can then be partners with the managers, I would think, in looking ahead for the future of that company.

Dr de Bever: You have to have that. I think you get bad unions when you have bad management, and good unions I think can work with good management. That may seem like a platitude, but ultimately, if you compare Canadian and US unions in that regard, US unions sometimes tend to be a little bit more pragmatic than Canadian unions. There's a bit more ideology when I listen to the language that's being used here, and I think that's part of the reason that Canadian unemployment rates tend to be more cyclical than US unemployment rates.

Ms Harrington: You talked about the future and that things would not be healthy in the steel industry, that there would be less reliance on auto, and you talked about more service-type industry in the future. How can we help? What advice would you give to us as a government as to how to stimulate that, and can you explain what you mean or give some examples of services?

Dr de Bever: You see, this is the problem. Many of the services that are going to be produced over the next 10 years are just concepts now. I find that particularly in business services, where a lot of them have to do with communications, software and things of that sort. It's very hard to visualize what's happening there. You see companies developing to provide new services with, say, half a dozen people instead of the large industrial organizations we're used to.

The fact is that when you look at the service industry, it has been growing and it keeps on growing over time. Even though it's hard to visualize what the incremental services are going to be, my intuitive sense is that they're going to be revolving around monitoring business processes to make them more efficient; in other words, software to do industrial monitoring, to do financial monitoring, to do more automated banking, those kinds of things that facilitate other transactions. And they're going to be related to what is often called human capital formation, education types of activity. I think one of the growth industries in the 1990s is going to be education in all its forms, not just public education but also industrial education. That's where the service industry is going to be growing, because, as a number of people have already pointed out, knowledge is what's going to produce the products of tomorrow, whether they be goods or services. That's the direction we're heading in.

The trouble a lot of people have visualizing that is I think part of why they fear the future so much. You can relate to a ton of steel, it has a feel to it, whereas services are ephemeral; you can have trouble visualizing. People talk about restaurants, flipping hamburgers. That is not the service industry. There are a lot of good jobs in the service industry. In fact, right now there are probably more people involved in producing software than there are in producing cars. Those kinds of statistics are starting to amaze people, but that's the reality. That's the way our economy is shifting.

The Chair: We have to come to a close here, Leo. I think a lot of the remarks you have made are consistent with some of the other presenters we've had, so either you're reading some of their briefs or this is your research in this particular area.

Mr Gary Carr (Oakville South): Or they're all right.

The Chair: Well, I hope they're all right. It's a pleasure to have you here again this year, Leo, and maybe we'll see you again next year. Thanks for coming.

Dr de Bever: Good to be here. Thanks.

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BANK OF NOVA SCOTIA

The Chair: Our next presenters are the Bank of Nova Scotia. Would you come forward and identify yourselves for the purposes of Hansard. Welcome to the committee. You've got nothing but good news.

Mr Aron Gampel: Of course.

The Chair: I'm at the Royal Bank. I had the manager call the other day: He wants my charge card, to snip it up after Christmas. I've got to be good.

Mr Carr: Tell him about your big pay raise.

The Chair: Oh, yes.

Mr Gampel: My name is Aron Gampel, vice-president of economics, Scotiabank. I've brought along my colleague, David Rosenberg, senior economist at Scotiabank. I'd like to read into the record our submission to this committee.

Ontario economic prospects: Lower interest rates and currency depreciation are helping to stabilize the Ontario economy. However, a vigorous expansion is unlikely any time soon. Provincial output should rise by just over 2% in 1993 following an estimated 1% gain last year. This meagre two-year advance recoups less than half of the recession's damage.

Scotiabank's forecast for the province is much less optimistic than the projections contained in the Ontario Economic Outlook prepared by Treasurer Laughren last October. In our view, provincial growth will continue to lag the national average, as it has over the past four years. Additional forecast detail is provided in our Global Economic Outlook included with this submission.

Ontario will continue to struggle with widespread industry rationalization, which has reduced employment by 5.5% since early 1990. The bulk of these job losses has been permanent, reflecting the massive restructuring dominating this recession, and will take time to replace. Moreover, the shift to part-time hirings is likely to continue.

Employment conditions in the hard-hit manufacturing and construction sectors should improve. However, job creation is likely to be fairly limited in the public sector and a number of other service industries that dominate provincial employment. With businesses focusing on improving productivity and containing costs, a revival in output will be accomplished with only limited job gains. On balance, Ontario's unemployment rate will likely remain stuck in double-digit territory, only moderately below the 11.1% rate reported in December.

A slow-motion recovery and the prospect of further setbacks will keep the household sector cautious and financially conservative. There may be temporary spurts in spending, but a solid and sustained rebound is unlikely until record household debt burdens are brought down. This process is being frustrated by the ongoing assault on income from layoffs, wage compression, higher taxes and the rising cost of government services. The pervasive weakness in housing prices and a soft equity market performance are adding to the cautious tone in spending.

As a result, the consumer will contribute only modestly to the recovery under way. While sales should outpace inflation, as they did in 1992 for the first time in three years, competitive pressures on retail margins will remain intense.

However, there will be some good news for local merchants as cross-border shopping recedes from last year's high-water mark. The 10-cent US drop in the Canadian dollar since late 1991 has begun to reverse a five-year runup in buying excursions south of the border. More aggressive pricing, Sunday shopping, tougher border rules and the startup of numerous discount wholesalers also are helping to bolster domestic receipts.

Ontario producers will continue to benefit from the better sales environment in the United States. Domestic competitiveness has been boosted by significant exchange rate depreciation. Firms have moved to restore profitability by cutting costs and increasing productivity. Businesses also are benefiting from

recent budget initiatives by the Ontario and federal governments to reduce the tax rate for manufacturers and provide for more favourable accelerated depreciation allowances.

Motor vehicle output should rise by over 4% in 1993 following a similar gain last year. Production of popular light trucks and vans, now accounting for one third of all North American vehicle sales, will lead the way and help lift domestic motor vehicle production above 2 million units for the first time on record. These vehicles make up over 40% of domestic assembly capacity.

Ontario housing starts are expected to climb by more than 10% to 63,000 units in 1993. Builders will receive support from low mortgage rates, strong international immigration and a firm supply-demand balance in single-family homes. Extending the RRSP tax holiday for house purchases should also help. Nevertheless, multiple-unit activity will continue to be undermined by the highest vacancy rate in two decades. The ongoing construction of government-assisted units in Ontario will underpin starts but also will aggravate the existing supply overhang.

While we expect Ontario to lead the country in housing construction this year, provincial starts will be 40% below the peak levels of the late 1980s. Weak confidence is offsetting much of the stimulus from reduced financing costs. Declining real estate prices have improved affordability for first-time buyers but have reduced the ability of existing home owners to trade up using accumulated home equity. Uncertain jobs prospects also are an impediment to a strong revival in sales.

Non-residential construction is confronted with a massive supply overhang. Vacancy rates have soared to record levels and are still climbing. The need to absorb an enormous number of empty offices, shopping centres and industrial plants left over from the building boom of the late 1980s will constrain activity through mid-decade.

The supply glut is acute in commercial real estate. Close to half of the 58 million square feet of vacant office space nationwide is situated in Toronto. Nearly 70% of the nine million square feet of new supply added to the downtown core from 1989 through 1991 has yet to be absorbed.

More than half of Canada's 140 million square feet of empty manufacturing facilities is in the Toronto region. Industrial land values and leasing rates in this area are down by 50% over the past three years. Industrial construction has continued to slide, with sagging permit values pointing to further slippage in 1993.

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Demographics remain favourable to growth, with provincial population increasing by almost 2% annually. Ontario is the destination of more than half of new arrivals, an inflow of roughly 100,000 last year. There also is evidence that the outflow of Ontario residents to other provinces which began in 1989 is diminishing. However, the challenge is to create jobs at a pace that will accommodate our expanding population.

With Canada likely to experience a low-inflation, slow-motion recovery in 1993, interest rates should continue to decline. However, the flexibility of monetary policy to provide durable relief has been undermined by the need to borrow \$30 billion annually in overseas markets to fund a chronic current account deficit. This imbalance is dominated by interest payments on government debt. Sudden shifts in

international investor sentiment have triggered recurring bouts of exchange rate and interest rate turbulence in recent months, repeatedly putting roadblocks in the way of recovery.

Budget implications: Lingering economic strains will continue to put enormous pressure on provincial finances. Despite widespread tax increases, the Treasurer already has indicated that revenues in fiscal year 1993-94 could fall more than \$4 billion short of last year's projections. The shortfall could be even larger if Mr Laughren's optimistic growth projections fail to materialize. Deficits in the \$10- to \$15-billion range are unsustainable and put a heavy mortgage on future growth prospects in this province.

Ontario is falling into the same debt trap that snared Ottawa during the 1980s. According to last year's optimistic budget assumptions, sustained economic growth fails to bring spending into line with revenues for the foreseeable future. Deficits of more than \$5 billion through mid-decade will push outstanding debt above \$80 billion, twice the level prevailing at the start of the decade. Debt service costs, which absorb 12 cents of every revenue dollar, will increasingly dominate provincial spending even under a strong growth scenario.

Provincial finances will stay under intense pressure even if business activity accelerates more sharply than anticipated because spending has moved massively out of line with revenue-generating capacity. The government now spends \$1.22 for every tax dollar raised, the highest of any province. Despite the lipservice paid to spending cuts, program expenditures continue to outpace inflation by a considerable margin.

Cuts in transfer payments from Ottawa have aggravated the fiscal imbalance and will probably continue to be a fact of life for provincial policymakers. However, excessive spending, not inadequate revenue growth, is the real problem. Federal transfer payments to Ontario have risen at a solid 6% annual rate since 1984.

The November 1992 Ontario Fiscal Outlook highlights the enormous requirements to upgrade an aging infrastructure, protect the environment and maintain public services. However, the government is in a fiscal straitjacket. Soaring debt service and social welfare costs are already forcing retrenchment in health care and education. The need for cut-backs in these areas has been amplified by the Treasurer's decision to insulate other priorities from recession damage. Expenditures on pay equity, non-profit housing, the employee wage protection program, the Jobs Ontario Training fund and legal aid are to rise by almost \$700 million this year, absorbing most of the net gain from all revenue measures contained in last May's budget.

Ontario's fiscal challenge: Meaningful progress in reducing Ontario's deficit requires a multi-year freeze of total program spending. Attempts to pay for new programs and offset a softer revenue trend with tax increases are self-defeating, particularly in an increasingly challenging international environment. Recent tax relief for manufacturers at the federal and provincial levels is a welcome development. However, the shift in the tax burden to the household sector undercuts the potential for a rebound in sales activity.

Ontario cannot borrow its way back to prosperity. Ottawa's debt trap is a stark reminder of the need for a cautious borrowing strategy. Credit rating agencies already have flashed

warning signals, downgrading Ontario's debt to double A from triple A. Sustaining or improving the province's rating requires meaningful restraint, not initiatives that obscure the underlying problem or move spending off-budget.

The cost of servicing a record debt load is already siphoning off the funds needed to improve competitiveness, shield business from adverse developments and meet pressing new environmental and infrastructural requirements. The average Ontario household now carries a net federal-provincial debt totalling \$60,000; that is, \$45,000 federal and \$15,000 provincial. At an interest rate of 8.5%, households would have to pay more than \$400 in taxes per month to service this liability even with no repayment of principal. This interest burden is slated to continue rising through mid-decade, notwithstanding optimistic official projections.

To prevent deteriorating finances from dominating the policy agenda through the 1990s, the government must move forcibly to streamline existing programs. Many programs will have to go through a major downsizing to make room for new requirements. Aging road and sewer networks are in urgent need of upgrading. Massive requirements are looming for environmental protection.

To get the economy back on track, the government must focus on improving competitiveness. At the most fundamental level, new initiatives that conflict with this goal should be shelved. Health care and education will absorb over one half of government spending for the foreseeable future. Debt service costs are growing rapidly. With about two thirds of spending already locked in, the decision to divert the remainder of expenditures to social services has worrisome, longer-term implications for productivity growth.

The government has little option but to bring spending commitments in line with available revenues. Fiscal reform is never easy, particularly in a weak economic environment, but there is simply no alternative. Borrowing allows temporary breathing room but only at the cost of much more painful adjustments later this decade.

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The Chair: Thank you. I think there's a lot of meat in this brief that you've had. Mr Carr has questions, to start off with the Conservatives.

Mr Carr: I really appreciate the brief. If the Treasurer could do nothing but read page 3 of your brief, I think he would get it in a nutshell. I don't know how you can say it any clearer.

Looking at the facts, the one that really intrigued me was down at the bottom where we look at the average household debt, and putting in the interest rates, they will have to pay more than \$400 per month just to service this liability. As a married person with three children, it's a daunting thought to think of what we are leaving the children.

Having said that, looking at the provincial debt where it stands right now—and the Treasurer is coming in this afternoon—what would be your recommendations to the Treasurer with regard to our debt that now is probably in the double digits, 11, 12, 13 or whatever it is? What do you say to him about our deficit? What should he be doing with it?

Mr Gampel: In our view, one must start off with what the economy is expected to do over the next year. What we

would like to see the government do is to put in place a series of programs, obviously, that will help the economy grow at a faster pace. As I read into the record, our forecast is that the economy will likely remain subpar through 1993 and far below the government's projections, which are close to 4% for provincial output.

A lot of the problems are not Ontario-specific. We are locked into a slow growth environment globally. At a time when North America is picking up some steam, economic conditions around the world are slowing sharply. Japan and Germany are now locked into very serious recessions which are dragging those regions into significant downturns.

What Mr Laughren can do, obviously, is to put in place a budget that will reinforce confidence among business people, households and investors. That's a daunting challenge at this particular time. Holding the line on spending, putting in a very, I think, longer-term view towards reducing the deficit significantly through major spending cutbacks is obviously a major cure for what ails this province. I think there is nothing magic that can be done. It requires significant cutbacks in spending to get the deficit down, because revenues alone are insufficient to do the job.

Mr Carr: I think we're winning the battle with the Treasurer very slowly. I remember when they came in and said they were going to spend \$700 million to spend our way out of the recession. I remember watching the other side clap and cheer. In this quarter alone, we'll cut out more than that because of the fiscal pressures. I honestly, truly believe, as you know, the Premier made the decision to hold the deficit, and I don't think it's because he woke up and became a fiscal conservative. I think what happened was he was getting a lot of pressure, realizing that we are borrowing offshore. I also believe one of the reasons he made the trip to Japan was to alleviate some of the fears, not because he wanted a holiday there.

We've heard many economists come in here and talk about how our real concern is that our debt is owed to foreigners. That's a major problem because we don't only owe ourselves provincially; we owe foreigners. Would you like to comment—I think you were here for the other presentation—on what that means for us in Ontario to owe so much to the Japanese, the Americans, the West Germans and so on?

Mr Gampel: When we are borrowing so much at a time when domestic savings are obviously at a premium, we are increasingly tapping offshore markets. There is obviously a risk to that, because confidence is a fleeting factor that can change overnight, and certainly the weakness in the Canadian dollar has tended to reinforce the view that Canada may not be the best place to put money at this time.

There is a market out there for higher-quality government securities. Ontario will be able to float issues. The problem will be that we will have to do it at a higher cost to the province and we may have to do it in foreign currencies in order to encourage continued access to foreign funds. Essentially, what it means is that we will be able to borrow, but it's going to be at a higher cost. It's not so much that there is a buyer strike out there, it's just that they're demanding an extra premium. There may be a case that can be made that portfolios will become sated to the point that even a higher interest rate may not be sufficient to guarantee that we can

float our issues, but we have not reached that point as of yet. Certainly, at a time when private sector credit demands are still quite weak, governments can go in and float issues. However, it is going to cost us more to do so.

Mr Sterling: When I was a member of cabinet in the early 1980s and was involved in the 1982-83 recession, when we were coming out of that recession there was a question as to whether or not the government of Ontario should really constrain expenditures in order to eliminate a deficit which was very, very low in terms of today's deficit figures. I think it was around \$1 billion to \$2 billion. The banks at that point in time said to us, "Look, don't be too stringent in terms of coming out of this recession" etc.

We're in a different time now. A lot of people who have been in front of this committee say we're taking on the federal problem, that the province of Ontario seems to be a mirror of the federal problem before. Prime Minister Mulroney came in in 1984, and from 1984 to 1992, he's increased his spending by 3% per year in operational matters and has not gone above inflation, while Ontario's increased its expenditures by around 10%. That's happened by various and nefarious means, but that's a fact. Yet it doesn't appear that Mulroney has control of the federal financial situation. It seems a conundrum or a problem where he's no further ahead now than he was in 1984.

What seems to be the lesson is that some government has to take some very, very dramatic action in order to deal with this. Quite frankly, I don't really believe this Treasurer or this government are going to do it, but I think perhaps the next government will do it, be it Liberals or Conservatives or whoever.

What kind of action can a Treasurer take to address this situation? As I say, I think the federal situation indicates that a slow, gradual approach is not going to work. There's got to be some kind of shock or there's got to be something that's very, very dramatic. Have you any suggestions at all as to what options a government has?

Mr Gampel: Again, as we've mentioned in our submission, obviously we have to go through all program spending and either put freezes in real terms or dramatically scale back spending in order to free up funds that can be used to revitalize industries, to help with infrastructural improvements, as opposed to running up very large deficits which in turn have been a major factor in now distorting our current account balance.

This is one of the problems we face, that right now, at a time when we have low inflation, our interest rates are very high. Lower interest rates would obviously go a long way towards improving economic conditions, improving affordability for home owners, for small businesses. One of the problems, of course, is that the massive runup in federal and provincial deficits and debt over the past decade has come to the point that our interest payments are essentially pushing these deficits out of control. Because of that, we now have a chronic current account deficit that requires us to borrow annually something in the order of \$30 billion. That massive borrowing has put Canada into the big league of foreign borrowers—we are now the number two net debtor in the world—so

we must now continue to offer very high real interest rates in order to attract funds into this country.

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I don't think there are any magic answers other than, at a time when economies are growing slowly and are not spinning off high revenues, even with massive tax hikes, and with the increase in the cost of government services, a major attack on spending has to be implemented in order to get the deficits down, to reduce the growing interest burden, to improve government fiscal finances, which in turn would improve our credit rating and help to alleviate the interest rate pressures which continue to exist. In short, cutbacks, streamlining of all programs, has to be the order, the rule rather than the exception.

Ms Anne Swarbrick (Scarborough West): I appreciate why Mr Carr was feeling particularly positive about your presentation, because I confess that of all the banks and all the traditional economists who've made presentations to us so far yesterday and today, yours is the first where I clearly feel some very definite politics behind the presentation. I'd like to make reference to a few parts.

For instance: "Despite widespread tax increases, the Treasurer already has indicated that revenues...could fall more than \$4 billion." No reference there, nor in the small reference later, to the fact that the federal government took \$4.5 billion out of our revenues last year alone, no reference to the fact that we in fact lowered business taxes.

You later say: "Spending has moved massively out of line with revenue-generating capacity. Despite the lipservice paid to spending cuts, program expenditures continue to outpace inflation by a considerable margin. Excessive spending—not inadequate revenue growth—is the real problem."

You make no reference to the fact that this government very much scrutinized expenditures last year, to the point that we managed to cut the growth in government expenditures in this province by \$3 billion when we had only been in office for one and one half years. That's the largest cut in expenditure growth in this province in almost 40 years, and no credit given for that to a government of a year and a half of experience here.

You make no reference to the fact that the greatest spending problem isn't the spending problem by this government. It's the great increase in social assistance costs, and we haven't created that problem. That's the problem created by the reality that we're dealing with out there, the incredible recession that's gone deeper than any of you had expected it to and caused greater job loss than anybody had expected, for a longer period of time.

You give us no credit, no reference at all to the phenomenal—and yesterday there were a number of presenters who made very positive reference to the phenomenal turnaround that our government has been able to make in the cost of health care in this province, costs that under past governments had been double-digit increases each year for at least the last 10 years. Ours is now down to 1.6% in annual increase, I believe.

So I guess my questions to you are, number one, could you please get rid of the politics behind your presentation and deal just with the facts and the problems that we're all facing?

My real problem to you is that you say, in answer to my colleague's questions from the other side, that you believe we should be introducing major spending cuts. First, could you try to be specific? It's very nice for people to come here with very generalized suggestions that we undergo spending cuts. Well, we've put in place one heck of a lot of spending cuts. I'd like to hear you be specific about which ones you think the Ontario public in fact could swallow.

Second, if it is non-profit housing, as Mr Carr suggests that you talk about, then I would like you to comment on what the impact of that would be. Because as we heard yesterday, the starts in non-profit housing have been where the increases have been in the housing starts in this province last year. It seems to me that what we've done there has been very positive in terms of helping to stimulate the economy, to start the minor bits of recovery that have already been starting.

My other specific questions would be, what are your comments in terms of some of the prescriptions that other people sitting in your chairs yesterday and today have talked about, the needs to put more money into infrastructure, the needs to put more money into training? What are your comments in terms of those kinds of prescriptions for improving our economy?

Mr Gampel: Let me just address one issue. On page 3 of my submission, we allude to the fact of cuts in transfer payments from Ottawa, which have been a factor, obviously.

Ms Swarbrick: I know you allude to it.

Mr Gampel: Well, it's in the record. Again, federal transfer payments to Ontario have risen at more than a 6% annual rate since 1984. That's a very healthy rate.

Ms Swarbrick: That kind of comment of course makes no reference to what the needs have been and what the demands have been, so I'd really appreciate it if you'd get to the heart of my questions. What exact spending cuts would you prescribe? What are your comments about infrastructure and training and those kinds of investments?

Mr Gampel: When we look at what the budgetary situation is and living within the government's means, we still have, even with the significant expenditure cuts—I guess what I could do is forward to you our budget analysis after the spring budget; I did not bring it along today, but I can. In that, we went through some of the significant restraints you had mentioned. I would think expenditures are still out of line, because they're still growing faster than inflation. The only way in a soft-growth environment that we can get the deficit down—

Ms Swarbrick: Which expenditures? Social assistance, right?

Mr Gampel: That's one area that is growing very fast. Interest payments on the public debt as well—

Ms Swarbrick: Those two.

Mr Gampel: —which continues to rise at a very, very healthy rate. I would say our best type of advice here is to set the stage as to what the economy is doing from a national and international perspective.

For economists at the Bank of Nova Scotia to provide you with detailed spending areas is not what I think my job should be at this particular date. What we would see is government

working with business and the consumer in trying to revitalize economic activity and putting in place an environment that is friendlier to economic growth. In that case, we need to get interest rates down; we need to get government spending down to try to get the deficit under control and reduce the debt burden and inexorable rise in interest payments and taxes which that entails. One of the problems we face here is that the tax burden has risen so much that it is deflecting businesses and spending outside of this country. I think that is an issue that has to be addressed.

Again, as I mentioned in this brief and as I mentioned already, it is exceedingly difficult to make the choices as to what program, which line item has to be cut. What has to be done is obviously right across the board. Expenditures have to be brought down. If it has to be, for example, as you mentioned, social assisted housing, we're putting in more multiple-unit starts at a time when we have tremendous overcapacity in that particular sector. It is just adding to the glut and helping to drive down prices in the area.

Ms Swarbrick: Thank goodness they're helping to drive down prices.

Mr Gampel: I think the easiest way to do it is to cut spending across all sectors, whether it's in social spending, in government compensation—it could be right across the board. I think that's the easiest way of cutting back, whether it's health, education, welfare, any industrial policies. Everything has to be cut at this particular time to try to get the economy into better balance.

The Chair: Mr Ward, I'm going to have to pass you. You're time is up. I'll put your name down for the next presenters and go on to Mr Kwinter.

Mr Monte Kwinter (Wilson Heights): Mr Gampel, I just wanted to draw your attention to a statement you made on the first page and a statement you made on the second page.

The one on the first page says, "Scotiabank's forecast for the province is much less optimistic than the projections contained in the Ontario Economic Outlook." By that, I assume you feel that their projections as to the economic growth are not going to be as buoyant as they think, and as a result of that their revenues are not going to be as buoyant as they think, because revenues are directly tied to the ability to tax the increased growth.

Then on the second page at the bottom of the second column you say, "The shortfall could be even larger if Mr Laughren's optimistic growth projections fail to materialize." So you've already, in your minds anyway, made the decision that they're not going to materialize, that they're optimistic, and you feel it's going to be a more subdued growth. That means it isn't a matter of whether his projections are going to materialize, that they're not going to materialize; which means that the deficit which is now, they admit, going to be at least \$10 billion and could be \$12 billion or \$13 billion and maybe even higher—what is going to be the direct impact of that happening? It isn't whether it's going to happen; it's going to happen. I'm asking if you feel that way.

Mr Gampel: Again, these are forecasts, so to be as definitive as you are might be difficult. Our best guess is that the economy will not grow as strongly as Mr Laughren has

indicated, and therefore we would expect the budget deficit would likely come in over the projections that have been indicated.

At the bottom of page 2, we indicate that deficits in the \$10-billion to \$15-billion range are unsustainable and obviously are going to continue to put a heavy mortgage on our future growth prospects. I think that what we're left with is a continued budgetary imbalance that is massive by historical standards and will continue to aggravate our growing and chronic debt burden.

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What it means, of course, is that the Canadian dollar will remain vulnerable to periodic turbulence and interest rates probably cannot come down as much as we'd like to see them come down relative to a more subdued growth and inflation pace. Other than accounting changes, ie, moving various items off budget, which could give a one-time more optimistic view, I think we have to look at the total picture. It would be hard pressed in a slow growth environment, unless we have major expenditure cuts and tax increases, to see the deficits come down in the environment that we paint of relatively subdued activity.

A faster growth scenario would obviously benefit revenues. It would also mitigate some of the expenditures that are highly cyclical. But the bottom line is that it is hard pressed, in looking at total deficits, whether they are on budget or off budget, to see any significant improvement from current levels.

Mr Kwinter: If I could ask one more question, and I'm not asking this to be self-serving on your part, your projections are relatively sobering and relatively small-c conservative compared to some of the others we've heard. I'm just curious to know, historically, how have you guys done?

Mr Gampel: That is sort of a difficult question to ask economists. Before everyone sort of hurts themselves laughing, I think there are numerous ratings that are in various trade papers. The Conference Board of Canada does regular summaries of banks and investment houses on their forecasting records. If you go back, as we do on numerous occasions, and look over the past maybe five years, I think Scotiabank ranks very high in its forecasting accuracy. We have been consistently on the side of a much deeper economic downturn, and more importantly, a much slower snapback in economic activity from the recession lows. On that basis, we continue to be at the low end of the forecasting spectrum right now, and we will remain so until we see more consistent evidence that the economies in Canada and the United States are turning up at a faster pace.

Mr Sean G. Conway (Renfrew North): Don't be bashful. I think you've made an interesting and helpful presentation. I am not normally a member of the committee, but I was looking at some of the material yesterday and from what I can judge, people who have been here in previous years who have been spectacularly wrong returned this year even more aggressively than last time, so don't feel the need to be shy or self-deprecating on that account.

Many questions present themselves, but there is one very specific question, one sort of general question. I was home over Christmas and I was reading in the papers—I think we should get specific. Now I'm the Treasurer of Ontario and you're my adviser in this current environment. I read in the

paper early in this year, "Ontario judges to receive 6.7% increase," over I forget what term. Ontario provincial judges are among the best paid people in the province. You're my adviser on the basis of this kind of data that you presented.

Should I endorse that kind of expenditure increase in that particular category, for example? Would that be a place to say, "Good people undoubtedly underpaid for what they do," but 6.7% in this kind of climate, with this kind of red ink and given the leadership position here—not on?

Mr Gampel: I would say that wage settlements significantly in excess of what the running rate of inflation is, for a government, are just unacceptable at this particular time. I think it's awfully difficult to constrain wages, whether it's because of pay equity or productivity gains or productivity levels. The bottom line is that given the seriousness of the budgetary situation in this province, wage restraint has to be the order of the day. These are very tough times, and therefore all measures which can reduce government expenditures at this time probably should be taken.

Mr Conway: But on the basis of what you submit here today, surely that's got to be the easiest decision I'm going to make as Treasurer.

Mr Gampel: Certainly there are many areas that restraint—

Mr Conway: Just forget all the rest. I'm talking about a specific example.

Mr Gampel: That is an example. Wages, because they comprise so much of government expenditures, obviously are a key area of restraint.

Mr Conway: Finally, can you help me? Yesterday, I left this committee and, incredibly, went home and watched the Panetta confirmation hearings in the Senate, and I just thought: "God, this debate is very similar. In this country, whether it was the Trudeau or Peterson Liberals or the Davis Tories or the godless New Democrats, they've given us this mountain of debt." But then you go to the United States and you see the Reaganite crowd. They were as bad as David Stockman said they would be 10 years ago. So now they've got this mountain of debt. Thanks to the Conservative right, we've got the same mess in both jurisdictions to some real extent.

There's good, old Ross Perot in Dallas saying now that this entire establishment is completely and congenitally incapable of doing the things you, sir, submit that we're going to have to do. I don't believe this is a matter of economics; I think it's really a matter of psychology and how we deal with some sense of public commitment on all sides to be responsible and disciplined and do the right thing. What advice do you have for us as politicians as to how we create a climate where individual citizens see that they have some responsibility to do something personal and particular, whether it's giving up twice-a-week garbage collection in Rosedale or whether it is the judges? I see the federal judges are going to take Mazankowski to court because they don't really think a minimum salary of \$155,000 is enough.

We spend a lot of time talking about welfare abuse, by the way, at the other end, and I was ranting about that yesterday. How do we create an environment and a psychology where everyone, particularly the middle-class, opinion-making elite, who work in legislatures, banks and universities, who've had one hell of a lot to do with driving up some of these big-ticket

items, is going to understand that we can't pay for it, and that means something to them personally, like, "Judge, you're a great person, but you're just going to have to live with zero per cent," or to university professor X, "You know, you're a great person doing wonderful work, but an average salary of 80 grand is enough for the moment." How do we do that?

Mr Gampel: Until governments essentially just take the bull by the horns and unilaterally do it—I think as long as people feel they are getting some benefit from services that are provided and cannot really bear the true cost for those goods, well, then, they will continue to utilize them, and not in an economic sense. Right now, though, the tax burden that has risen so dramatically is probably rifling home what has to be done. With the marginal rates in Ontario back above 50%, with the gigantic increases in the cost of government services, with user fees or higher costs for water, for hydro, for licences, the message is being driven home.

Obviously, though, it's up to governments to essentially now buckle down and take the situation in hand. I don't think there is a general view out there that this is a problem related to any specific government or a problem that's related to any specific province or country. This is a problem that is facing the North American countries and is not going to go away. I don't know if we have to educate any more. I think people are getting educated every time they have to do their tax form and every time they have to go to the store.

Mr Conway: The latest public opinion research indicates—

The Chair: Mr Conway, I'm sorry. We're over right now.

Mr Conway: Just a final question: The latest public opinion research indicates that the public wants less taxes and more of the higher-cost services. What do we have to do to break that psychologically?

The Chair: Mr Conway, I'm sorry, we're over time. I was very patient. It was a good question you had and I ran over. Gentlemen, I'd like to thank you for appearing before this committee. The last question Mr Conway had was a real good one. I liked your answer too.

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ROYAL BANK OF CANADA

The Chair: The next group we have is the Royal Bank of Canada. Would you come forward, please, and introduce yourselves for the purposes of Hansard. I'd like to welcome you to the committee.

Mr Mark E. Chandler: Good morning. My name is Mark Chandler. I'm the assistant chief economist, Royal Bank economics. I will be giving you the presentation this morning that deals with the global outlook and the national outlook and the implications for our financial markets. I'll be followed up by Benoît Durocher. Benoît, do you want to introduce yourself?

Mr Benoît Durocher: As Mark said, my name is Benoît Durocher and I'm regional economist for the bank. As such, I'm responsible for the forecasting of economic conditions, growth and all the variables for all 10 Canadian provinces.

The Chair: Okay, carry on.

Mr Chandler: I'll get started right away then. I hope to keep my comments brief on the national outlook and then we'll turn right away to what we see for Ontario.

I'll start by saying that this is the third year in a row I've been before the committee and I'm certainly more optimistic than I have been in past years, although in some sense this reflects the depth of the problems in the past.

Last year, we called for a very poor 1992, with output growth of just 1.7%. In the event, growth was not too far off that figure, I'm sorry to say. We also warned that revenue growth would be lower than projected for the province and we recommended that discretionary expenditure growth should reflect this reality.

Some of the factors we cited at that time for this weak growth included weak growth elsewhere in the world and a high level of real interest rates. It included some adjustments to recent policies including freer trade, deregulation and privatization, adjustments to the GST and environmental legislation. We also had high debt levels at both the household and business level as well as at the government level. We also had a situation of low commodity prices, and internationally as well as in Canada a focus on price stability. Adjustments to all those factors suggested that we were going to have some structural things in place that would detract from any normal, cyclical acceleration in growth that might be forthcoming.

This year, many of the same factors are in play that might hold back a typically strong cyclical rebound. Nevertheless, we do have some factors in our favour that will yield moderate but not spectacular growth. Here are three factors that make us more optimistic this year:

The first is that the Canadian dollar has, for several years in the past, been trading at above its competitive value based on a long-run cost basis. It is now roughly in line with our cost structure after falling more than 10% in the past year. Interest rates are about 25 basis points below where they were a year ago.

As well, Canadians are beginning to adjust to an era of low inflation. As a result, we see some downward pressure on interest rates, particularly long-term interest rates, despite the expected acceleration in growth. Our forecast calls for a further reduction of some 50 to 75 basis points in long-term interest rates this year, while prime rates are expected to average at the current level of 7% throughout the year.

Finally, while economic activity is expected to languish in Germany and Japan, growth in the OECD countries overall will indeed pick up. The OECD is expecting growth of 2% in the first half of this year and 2.5% in the second half of this year. Of direct importance to Canada is the expected performance of the US economy. Here we see growth accelerating to 3.2% this year and 3.5% next year. This will afford Canada and Ontario some much-needed room to improve their external trade. Indeed, we see exports adding about 0.5% to growth for the nation as a whole this year.

These positive factors are expected to offset the drag on growth from some of the structural changes the nation is undergoing, structural changes that have had a particularly devastating impact on Ontario. On balance, we see the growth for the nation as a whole at 3.5% this year and 4.1% next year. As I said, we expect the prime rate to hold at its current level of about 7% throughout the end of this year and

for the Canadian dollar to weaken initially before recovering to 79.5 cents by the end of this year.

I will now turn the discussion over to Benoît Durocher, our regional economist, to discuss the implications for growth and the fiscal arrangements in Ontario. Before I do so, I'll just explain some of the documents you have in front of you in your package. We have our latest Econoscope, which covers some of the issues involving Canada's international competitiveness, and some looseleaf papers, including Ontario's economic outlook, Canada's economic outlook and the US economic outlook. Those will have all the figures you will need.

Mr Durocher: I'd just like to start by picking up on a few of the elements Mark mentioned as they pertain to Ontario's economic environment in the coming years. Three of these elements we feel are very important in shaping the way Ontario will perform in the next few years.

The first one is a low-inflation environment. We're starting to think in terms of low inflation, whereas prior to that we always thought in terms of higher inflation. Now we've come to relatively low inflation or quasi-price stability which we feel will stay for the next few years given the stated monetary policy at the federal level, the Canada level.

Another factor that will shape Ontario's performance during the next few years is intensifying world trade, which should continue and intensify even more over the next few years. I'm not talking here only about NAFTA and the FTA, which of course make headline news every day, but also about the GATT negotiations. What GATT reflects is a worldwide will to increase or facilitate trade flows across countries or across national borders.

The third factor that will shape Ontario's performance or future and has already started to do so, along with the two previous factors as well, is indebtedness. I'm not talking only at government levels but at the firm level or business level and the household level as well.

Here are some examples of why Ontario has been shaken and will take a little while before it shakes off the detrimental effects of these three elements to its economy.

On inflation, for instance, we've seen very tangible effects of the reduction from a high-inflation environment to a low-inflation environment, particularly in the real estate sector where asset prices or asset values have fallen very quickly and have led to structural changes in that segment of the Ontario economy. It has done the same elsewhere in Canada, but for Ontario it's been particularly acute.

Intensifying world trade: What that did is reveal very quickly some of the shortcomings of Ontario's economy or some of the competitiveness or productivity problems we've been fueling or hiding, if you will, since the 1980s. Unit labour costs in manufacturing particularly have risen spectacularly in Canada and are now only starting to come down under the effect of a very hard or very austere monetary or anti-inflation policy.

By the way, this restructuring in manufacturing is very vivid in Ontario, where now the total number of jobs in manufacturing represents below 18% of total employment in the province. Just 15 to 17 years earlier, from 1975 to about 1981, manufacturing employment was around 24% to 25% of total employment in Ontario. So we see that there is a

profound structural change in that very important segment of the Ontario economy.

The third factor is debt. Ontarians have gathered huge amounts of debt, as I said, at the household, business and government levels in the 1980s without that debt being supported by real tangible assets. In the 1980s, that led to a frenzy in consumption. What it has done in the late 1980s and early 1990s is lead to a restructuring in retailing, where we see that consumption has really slowed down. It's starting to pick up again, but it's slowed down.

Restoring wealth creation in this environment, which would be the main thrust of this forecast or this presentation before you, will not be easy, but in our view it should be the overriding concern or objective of public policy in Ontario and indeed in Canada.

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With this changing environment in mind, I'd like to give you a more detailed or sectoral view of the Ontario economy for the next few years. I'd also ask you, although this is not an apology, to bear in mind that these new economic conditions or the emergence of this new economy does not make life any easier for a forecaster, which is already a perilous profession. So instead of focusing on numbers as such, I'd like you rather to focus on the thrust or on the reasons of why we see Ontario, in a nutshell, growing a little slower than the Canadian economy as a whole.

For 1992, many people ask, "Was the recession over in 1992?" It sure felt like a recession. Employment still dropped. We've seen it particularly acutely in manufacturing. Employment dropped from 1.1% to 1.2% in 1992. That's a fairly sharp drop. So people were still asking, "Is the recession over in Ontario?"

There have been positive points in 1992 which should carry on into 1993 and 1994, for instance exports, which is a large part of the Ontario economy, particularly to the United States. Exports to September had increased by 12% in value. That was mainly in crude materials. To September the increase was 18%, but that was due to the devaluation of the Canadian dollar, since many of the commodities that were exported, or the base metals and all that, were denominated in US dollars. With the devaluation of the Canadian dollar, it of course increased the value of exports in Canadian dollars.

The residential construction industry: After three or four years of consecutive decline, residential construction finally showed some growth. In Ontario, as we said prior, the declining house prices or real estate prices made house construction, new home construction, more attractive, accompanied by a decline in interest rates and a sense that consumers are being more confident about the future of the economy that really buoyed residential construction in Ontario. Although the increase was not spectacular, it's still a step in the right direction.

Retail sales: Retail sales, again, dropped by over 3% in 1991. We had the impact of the GST, which Mark alluded to. We had the restructuring in manufacturing and the whole of the change from a high-inflation to a low-inflation environment. That led retail sales to drop in 1991. In 1992 they seem to have picked up. To October they were up by 1.4%, which is a good thing.

Overall for 1992, we feel real gross domestic product in Ontario averaged slightly above 1% in real terms.

There are restraining factors to this growth. We are not seeing the same kind or the same type of growth we've seen in the previous recoveries, particularly in Ontario, because of the changing environment we alluded to earlier.

One of these restraining factors obviously is restructuring. Restructuring, or the decline, if you will, of labour to produce output, in the short term could be a restraining factor, but for longer-term growth, productivity increases are essential to maintain or sustain longer-term growth. So even though employment, say, in manufacturing has decreased, we feel unit labour costs in Ontario have been decreasing as well or reflect an increase in productivity.

Another thing that has happened in Canada throughout 1992 is the surge or the rise in investment in machinery and equipment. To us, that is not of course a restraining factor, but it goes hand in hand with productivity increases. As we invest in our productive capacity in the most efficient technologies or the most efficient processes available, then this bodes well for future growth, but it takes time before this productivity is indeed instilled in the economy.

Consumer debt: We tend to think that consumer debt is actually declining in all of Canada, in Ontario and Quebec, for instance, but our estimates show that consumer debt, or household debt, is actually increasing as a share of personal disposable income. The rate of increase has slowed down, but due probably to higher taxes, the ratio of debt to personal disposable income is still increasing, but slowing down, which is the good news. The deflation of asset values is also a problem, since the ratio of debt to net worth will be affected by that, obviously.

In non-residential construction, particularly in the industrial and commercial or office space side, that's another restraining factor. There's enough supply on the market presently to last for at least the next two years without any new major projects being started. So the bulk of non-residential investment is actually taking place in machinery and equipment.

Another restraining factor, of course, would be public finances. With high taxes, a high deficit and high debt, which means higher taxes in the future, that also constitutes a restraining factor. We talked to the effect of higher taxes on slower personal disposable income growth.

Also, overlapping that is the uncertainty of the policy environment. We're not quite sure at this moment that the right policies are in place to foster sound and sustainable growth in Ontario.

Growth factors: I talked at length a little earlier about productivity. Labour productivity is on the rise and we still have to wait and see if wage gains will wipe out the effects of productivity gains, but we feel that the time is ripe for notable productivity increases in Ontario.

With the lower dollar, the higher productivity, with the US recovery, Ontario exports almost 80% of its total merchandise exports to the United States. We feel that the exports sector will be a very positive factor on Ontario's economy for the next few years, and as I said earlier, investment in machinery and equipment bodes well for the longer-term or sustainable growth.

Residential construction, finally, one of the last positive factors we've identified, should also continue in its increase, supported to an extent by socially assisted housing, but still the overriding or the fundamental conditions or criteria—the real estate prices, declining interest rates, a slowly improving employment situation or picture—should boost demand for housing.

Sectorally, how does this translate in Ontario? The transportation equipment, which is central to Ontario, accounts for almost 30% of total manufacturing shipments in Ontario. While the outlook is generally positive, the auto assembly sector is still competitive compared to other firms or other plants elsewhere in the world, but it is coming under increasing fire to improve that competitive edge and we must not lose it if we want the outlook to remain generally positive for the longer run.

The transportation equipment segment has suffered from international competition or from rationalization, from restructuring as well, and there are closures that have been announced, but there have also been investments that have been announced in that sector, particularly in the auto assembly.

In the auto parts segment, the jury's still out on that sector. That segment seems particularly vulnerable to outside competition, so we have to wait and see what will happen with the parts segment. There's been already a lot of rationalization in the auto parts manufacturing sector and we feel that most of that rationalization has already taken place and it should be in better shape now to benefit from the emerging recovery.

Retailing in Ontario: There have been large downsizes. There have been a lot of bankruptcies in retailing due to the consumption frenzy of the 1980s and to the sharp downturn in consumption. Retailing seems to be changing. It changes not only in size but also in the way it gives out retailing services. We see the emergence of warehouse-type stores, which seem to appeal to consumers who are more sensitive to the prices they pay for the goods they buy, and warehouse-type stores seem to be addressing that need particularly. So we might see a shift there from exclusive stores to more warehouse-type stores or more discount-type stores. That is also tangible proof of the emphasis that industries in general will be putting on competitiveness.

Construction I've alluded to already. It should increase because of the lower interest rates, the low house prices and the government supporting subsidized housing. The non-residential side should see a major stop, if you will. It's already seeing it because of the overcapacity in that segment.

As far as utilities go, and particularly Ontario Hydro, it seems the government is taking the right steps to stop the problem from getting even bigger. It's already a problem, but they've cancelled the Manitoba deal, which would have increased the energy overcapacity, energy that's not needed in Ontario right now. They still, to my knowledge, have a moratorium on nuclear power plants and further costly developments in that segment, so that seems to be doing very well.

Overall we see moderate growth compared to previous recoveries in Ontario. If I'm not mistaken, we're seeing 3.5% growth in 1993 and 4% or 3.9% growth in 1994. So it should be slightly under the national average, which is quite unusual for Ontario, but as I was saying, these restructuring elements

or this emerging new economy is really hitting Ontario the hardest. So on balance, Ontario will still represent 40% of Canadian GDP by the end of the forecast period.

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I avoided mining. I'm sorry about that. Mining in 1992 had I guess a so-so year. If it weren't for the declining value of the Canadian dollar, the value of exports or the value of shipments in mining, it might not have posted an increase, but for 1993 we already know about closures or reductions in Inco and Falconbridge, so in volume terms 1993 should remain around stagnant and should be neutral as a contributor to Ontario growth.

Where does that take us towards public finances? I'll turn my attention to public finances. Where are we now and how did we get there? I was listening earlier on to comments made by someone on the panel here and they were saying that yes, expenditure growth was tremendously high during the latter part of the 1980s. I'd have to agree with that. Public expenditure growth in Ontario in the late 1980s was increasingly generous without concern about the supportive wealth we were generating to support that type of public expenditure growth. We actually based our expenditure growth on the wealth illusion of the 1980s. We thought we were creating wealth. Obviously, I think we didn't create as much wealth as we thought we did.

Of course on the revenue side there were problems of downward pressure because of the recession, and there was also downward pressure on the public revenues or government revenues because of the changing economy. We're in a low-inflation environment now. We have to face that and that wages will not automatically increase by 6% or 7% and automatically increase government revenues by 7% or 8% to 10%. Those times are gone now.

It's the same thing with retail sales tax or sales tax in Ontario. Again, the low-inflation economy will not yield high-revenue growth during the next few years. So we're stuck, it seems, with a high structural deficit for the next coming years. This was correctly alluded to in the government's Ontario Fiscal Outlook. Even if revenues were to increase by 10% it still wouldn't reduce significantly, or it wouldn't wipe out anyway, the high structural deficit, so we're still keeping or we're still adding to total debt.

What does that do when we add to total debt faster than we actually create wealth or faster than the GDP grows? The debt services payments continue to increase, and they increase as a share of total revenue, they increase as a share of GDP. What we're actually doing is that the increasing debt service costs are cutting back on much-needed public policy interventions such as in education, in health and in infrastructure and in this new concern that governments seem to be having which is the environment.

We've looked at environment spending. Environment spending, rather than to increase, has declined from very low levels in 1975-76 to the current levels now: It's under 1% of total expenditures or just about. Debt service is acting like a straitjacket. It forces the government or it constrains the government in its spending on much-needed initiatives.

What are the solutions to this public finances dilemma? Unfortunately, and I think government realizes this, there are no quick fixes. You cannot, first of all, cut back on expenditures

savagely without taking a close look at what the impact would be on the economy, just as you can't increase revenues very fiercely without judging or without jeopardizing this recovery we're in right now.

The government will have to analyse, first of all, cuts in the global scheme of things and also revenue increases, maybe think about user-pay mechanisms. We might talk about that a little later on. What we've been doing or what public policy should be doing, in our view, is to focus on wealth creation, because wealth creation is eventually what will support expenditures and what will bring revenue to the provincial coffers.

One of the objectives of fiscal policy is to redistribute wealth, and that's one worthy objective of the tax system in Canada. But the first condition to redistribute wealth is to create wealth, and so far, in our view, public policy has failed to address this concern adequately. In fact we have to borrow to give us the illusion that we are indeed redistributing wealth. Of course we're not; we're borrowing it, so sooner or later we'll have to pay it back.

With this in mind, I'll turn it back to Mark for summing up.

Mr Chandler: Just to summarize, we were appropriately cautious about growth last year and we think we're appropriately more upbeat about growth this year. We also recognize that this acceleration in growth will do little to dramatically improve the labour situation in the province or that it will ease the pressures much on the twin problems of weak revenue growth and strong requirements for social services spending.

In this environment there must be increased focus on improving the efficiency of delivering government services whether through the increased use of technology, a sea change in the delivery of the programs or appropriate pricing and signalling mechanisms. These are essentially microeconomic questions and this goes back to Benoît's point that there are no quick fixes.

The macroeconomic question of whether to spend more to get us out of recession has already essentially, we feel, been answered for us. We simply do not have the kind of room to manoeuvre that would afford us this kind of luxury. Our net external debt as a country is more than troublesome at 38% of GDP. It is an albatross on our future standard of living and prevents us from providing the current level of services to future generations. With that, I'll turn it over.

The Chair: I'm going to start off with Ms Harrington.

Ms Harrington: I like your positive approach and I like your phrase "consumption frenzy of the 1980s." You said Canada is going to be producing more, 3.5% this coming year. I'd like to ask your views on a particular situation, that is, the Hamilton-Niagara region.

Other people have told us we are going to have to rely less, obviously, on steel and auto. In our region we have a very well trained workforce. We're losing our industrial base we've had for a long time. We have a very good location for US distribution. What can you foresee? Other people have told us that the service industry is going to be much greater in the future. What might you predict for the future for our region?

Mr Chandler: I'll start just by answering a little bit from a national perspective of what we see and how that might relate to your region. Clearly, one of the things we're hoping

for this year and counting on in terms of the recovery is exports, and particularly exports to the US. The rest of the world will not be performing extremely strong.

As Benoît alluded to, 88% of Ontario's merchandise exports go to the US. A lot of them go through the Golden Horseshoe region. I think if you're looking for some areas where you will see growth in the long term, structural changes suggest more service employment, but in the short term, in terms of Ontario's near-term recovery, a lot of that's going to come through manufacturing exports. The manufacturing sectors in the near term may be those that turn around the quickest, those that have experienced the most pain in the past as well.

Ms Harrington: Can you see, say, foreign investment coming into our area to set up small manufacturing?

Mr Chandler: I think we've already seen it in terms of some of the auto investments that have been announced in the Windsor area and the Hamilton area in particular. I'm sorry, I don't know. I'm not aware of any projects, but there have been some new investments announced in the auto assembly area that are encouraging, because it suggests Ontario can recapture a manufacturing competitiveness. It's just going to be tough work.

Mr Durocher: I would like to follow up on Mark's comments. Indeed, for your particular region, we have to think more globally, not only in terms of selling to other global markets but also that there is global competition out there and that Hamilton-Niagara—the way it traditionally manufactured steel or steel products may not be the most efficient way in light of global competition.

We're seeing the process provincially, we're seeing it in manufacturing, we're seeing it in Canada, where we talked about declining labour and the use of more advanced technology. That is all part of the solution. It's not overnight. This process of restructuring didn't happen in 1990 in the second quarter when we went into recession. This restructuring process in manufacturing started way back in 1989, possibly 1988.

What we're seeing is that this global competition is hurting, so we have to think—I'm not much aware of the problems of the Hamilton-Niagara steel complex—but is it worth producing, say, 100 million pounds of steel rail when there are no railways being built and actually there are rail lines being cut? Is that the product you want to do? If so, where is it needed? We have to answer to a need. This is basic economics. How can we do it cost-efficiently or cost-competitively?

Japanese and Korean manufacturers are making steel much more competitively than we are. They've been accused of dumping or stuff like that by other governments, even our own, but the fact of the matter is they're being aggressive in our markets and we have to do that. To do it requires labour training or manpower retraining.

Obviously, displaced workers in the steel industry cannot find a job in, say, mini-mills, which are more automated, which use more information technology. Obviously, this displaced worker will have to have training in that area. I think maybe governments are at fault for not providing the correct incentives but, as I pointed out earlier, they may not have the means to provide these incentives, these moneys, for

retraining. Debt service costs are actually preventing them from doing so.

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The Chair: Okay, I'm going to have to go on to Mr Kwinter.

Mr Kwinter: Mr Durocher, I found some of your comments interesting and a bit of a conundrum; not a conundrum in what you're saying but in the reality of the situation. You said that last year one of the bright spots in our economy in Ontario was that we had a 12% increase in exports, most of that US. In your projections for 1993, you again see American exports as being one of the bright spots in the economy.

When you consider that over 30% of our gross domestic product is based on exports, how do you square that with the fact that every time anyone, particularly the government, mentions the recession, it is coupled with free trade, when in fact one of the bright spots in our economy last year was the fact that our US exports grew so dramatically, given that the total growth in the economy was only 1.2%?

Mr Durocher: What can I say? We feel the FTA has been beneficial to the Canadian economy overall and to the Ontario economy in particular, but it's not the only factor affecting the Canadian economy. The FTA is not, for instance, instantaneous in its effects. In some industries and for some goods the tariff reduction period extends out to 10 years, so it's not instantaneous, for one thing. The FTA has opened up markets for some goods in the United States, but conversely, it has opened up the Canadian market to goods for exporters in the United States.

I think the FTA on balance has had a generally positive effect, but the FTA couldn't counterbalance by itself the problems we ran ourselves into in the 1980s with productivity declines and horrendous unit-labour cost increases, which have been detrimental to the competitiveness of the Canadian economy. If we've been so bad competitively that we actually couldn't overcome our reduction in tariff barriers or that the reduction in tariff barriers actually exacerbated that competitiveness loss, then it's our fault. We let it go; we were veiled by the wall of protectionism. Now that the wall is down, it's a new game. We're in a world event here.

To answer your question, I think the FTA is generally positive or favourable for the Ontario economy, but then again it does not overcome all the other structural problems the Ontario economy has run itself into. So it's a positive contributor to growth.

Mr Conway: One of the interesting things about these submissions is the extent to which governments have behaved with a credit-card mentality, "Consume now and pay later," and the whole psychology that the people around to pay will be the ones to consume and all of that sort of stuff. I saw something not too long ago about the level of personal consumer debt. It was staggering. I couldn't believe it. I can't believe it, which leads me to my question.

These things apparently are an individual and a collective evil, if for no other reason than that they are just inducing a whole bunch of people—a lot of people individually and, maybe more importantly, the community as a collective—to be grossly ill-disciplined and irresponsible in terms of the way they behave. It is to such an extent that good bankers

like you come and say: "Hey, this is getting a little out of hand. You can't keep doing this."

Should we start to take, individually and collectively—let's start with the individual. These things are really bad, aren't they, apparently, in practice though not in principle?

Mr Chandler: I think you're asking a couple of questions there. First of all, that's a TD credit card, so if you're going to stop, that would be a good place to start.

Mr Conway: Apparently, they're enormously attractive profit centres for all of you.

Mr Chandler: That's not true. If you look at some of the breakdowns in the bank statements, it's not the area where we make most of our money. But in answer to your question, it's talking about whether you restrict availability of credit to the nation's individuals. Is that the sort of thing you'd want to do in a democracy?

First of all, we do not say that you cannot buy beer, alcohol or wine in Ontario. Instead, what we do is make it available. We also tax it very heavily, but we make it available and we put regulations around it that will control its use. Similarly, I think what you see in the financial institutions is that you give financial institutions rights to do things and at the same time you regulate them through things like the Bank Act.

Mr Conway: But I don't think we—

The Chair: Sorry to interrupt you, Mr Conway. Mr Carr.

Mr Carr: You can have a bit of my time, if you want.

The Chair: You want to give him your time?

Mr Conway: I'll conclude with sort of a supplementary. Of course they're a good thing. I think they're a wonderful thing. But apparently there's an awful lot of very bad behaviour out there. My friends who are in the banks, my friends who attend at bankruptcy court—I was talking to a friend of mine, a lawyer, who does a fair bit of work around bankruptcy court, and he said it's a scandal, it's a perfect scandal. These financial institutions, he tells me, will give anybody, no matter how profligate—no matter how bad your past is, apparently, they'll give you another one.

I want to reduce this to the micro level. We talk about the macro, and it's very useful, but I'm just a poor old practical politician and I'm a bit of a Cassandra. I think I know the medicine we have to start administering and I just know how pleased the judges are going to be to be told: "I know it's tough, but \$130,000 or \$160,000—you're just going to have to make do. And you may take us to court and all the rest of it."

You people are coming in here and making very compelling arguments about the way in which we, as governments, are living beyond our means. I guess I just ask a trifling little question. Maybe it starts at home. Maybe the financial institutions need more encouragement from government and the bankruptcy courts to start to show a little more discipline and responsibility about the way these things are issued and the way in which poor performance is not being dealt with.

Mr Chandler: I think you're simplifying the issues a lot.

Mr Conway: Of course I am.

Mr Chandler: The banks have some blame in this as well, but I would argue that one of the reasons that personal debt to net worth increased a lot in the late 1980s was, of course, that net worth fell. A lot of mortgages were lent on the

value of housing. The value of housing took an unprecedented decline in Ontario and people lost their homes. In part, some of the fault is that people in the banks as well as people in the economy as a whole didn't expect us to move from a level of inflation of 5% and asset inflation of much more than that, if you look at things like house prices, to, instead, a level of inflation generally of 2% and asset deflation in a lot of categories. That's where the problems in debt occurred.

And it's a wrenching, heartbreaking adjustment to move to that low-inflation environment. Now people do not expect their homes, as they did in 1988 and 1989, to increase by 10% or 20% a year, and they will not be granted mortgages on the basis of homes increasing 10% to 20% a year. Rather, we have, we hope, adjusted to a low-inflation environment, and the credit approval process will reflect that.

The Chair: I'd like to thank you gentlemen for appearing before this committee.

Mr Sterling: Mr Chair, could I just add—

The Chair: Have you got a statement or a question?

Mr Sterling: I want to ask a question.

The Chair: I'm sorry, but Mr Carr gave up your time. We have Mr Stokes back there, patiently waiting to come before this committee.

Mr Sterling: This question will take a minute. We haven't had an opportunity to ask a question. We gave some of our time, but we didn't expect the—

The Chair: He took all your time. Look, he's got his card out. He's buying lunch today, Norm.

Mr Conway: No, I'm not. Don't you know there's no free lunch? That's what this is all about.

The Chair: It wouldn't be free. You'll pay for it when you get your statement. I'm sorry, we're going to have to carry on. Norm, you can see the gentleman out in the corridor if you've got a very important question.

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WEFA GROUP

The Chair: Our next presenter is Mr Ernie Stokes. Would you come forward. It's the Wefa Group. What was that called before? Is that a new name for the group?

Mr Ernest Stokes: No, it's the same name.

The Chair: Okay. It was someone else who had some change in name. We have until 12:30, but could you leave some time at the end? As you can see, some of the committee members are very eager to ask questions, so make sure there's enough time left that Norm doesn't miss out.

Mr Stokes: Obviously everybody's getting ready to go for lunch, so I'll try to keep it brief.

Our forecast for the Ontario economy and the Canadian economy is probably not a lot different from most forecasts. For 1993, we look for growth around 3%; in Ontario around 3% to 3.5%. Inflation is going to stay low, around 2.5%. Interest rates have come down and we think they're going to stay down, and we think the dollar is going to average around 78 cents.

Over the medium term, we expect growth to improve, to stay in the 3% to 4% range in Ontario and Canada; inflation to remain low in the 1.5% to 2.5% range; interest rates generally

to trend down over the next five or six years, and the Canadian dollar to stay pretty well where it is and maybe depreciate a bit.

That's all nice, but what I want to really talk about here are some key issues behind the forecast which have policy implications. Everybody here is getting impatient about the economy recovering. I just want to talk a little bit about why we think it's going to have difficulty and why the recovery is going to be slow.

I'll walk through this handout. I'm on page 2 now. What I want to look at are some of the forecast assumptions and discuss those, and the policy implications associated with those.

When we do forecasts, what we look at are two main sets of factors. One set is what's going on in the rest of the world; Canada is a small, open economy and what happens in the rest of the world is very important to us. The second set of issues is really what governments are doing, what domestic policy is doing. Those are the two main issues that drive our forecast.

On the external environment side, the US is our most important trading partner, so I'll concentrate on it. What we look at there is what's happening to growth. The reason we look at growth is because we export things and that's important to us. Stronger growth in the US means stronger growth in Canada because of exports. We tend to import things from the US, so if the inflation rate in the US is high, we'll import their inflation; the prices of their goods will be going up.

Interest rates: Everybody knows that capital markets are global these days; you've heard that over and over again. That means if interest rates are high in the US, it's difficult for us to have low interest rates.

What we see for the US economy is probably what everybody else is saying: a fairly slow recovery, continued low inflation and interest rates pretty well staying low and maybe gradually rising over the next few years. That's fairly non-controversial.

One thing I'd like to bring out, though, and point out to people is that everybody's sitting around waiting for the US to pull us out of what I call stagnation. That's the key policy response so far, just to wait for the US to do something. I think that's a mistake. One reason I think that's a mistake is what the previous speaker was talking about. We had export growth of 12% in Ontario last year, and in Canada, we expect to have export growth of 8%. Well, that's 3% above average growth. If you look back 20 years, we're growing at above-average export growth. So if you're waiting for the US economy to pick up and increase its export growth, I think you're wasting your time. We can get a little bit more growth through that route, but not a lot.

So 1992 was not a poor year for trade; it was a good year for trade from a historical perspective. So what's wrong? Well, what is wrong is that we're not adding value to our exports. One of the things that's happening is that our economy grew 1% last year in Canada and imports grew 6%. What that means is that we're not competitive. When we export things, we measure the total value of the export, but how much does Canada contribute to that? We got 8% real export growth in 1992 but no growth. What happened? The problem is that when we export things, we don't contribute much to those exports.

We got lucky last year on the auto side. We happen to produce trucks in Ontario, and trucks were very popular in the US. In 1993, trucks will probably hold their own, but there won't be any increase, so we don't expect autos to do well. I wouldn't look for strong growth. The main reason is simply that we're not competitive. When an auto producer sells something to the rest of the world, it imports parts to produce the cars. How much does it add to value? It may put some of the car together, but 80% of the car may simply be imports. If you observe auto exports and auto imports over time, you find out that when auto exports go up, auto imports go up. So on a net basis, you're not any better off.

So our problem on the trade sector is to make sure our value added share of the exports goes up, ie, the amount we produce in Canada. If we simply export a car, it looks like good stuff: you know, a \$10,000 or \$20,000 car. Unfortunately, the Canadian contribution to that is small, because we import everything to produce that car and sell it abroad. On a net basis, we're no better off. We have to add value to the product before we resell it, ie, we should be producing more things domestically rather than importing them so we can export them. It's just a matter of re-exporting. We can make exports look really good by simply importing everything and exporting everything. It looks great, but we're not adding any value to it.

The idea of waiting around for the US to pull us out of stagnation is crazy, because we had above-average export growth in 1992 and we couldn't grow. That is not our problem. Our problem is that we can't add value to anything. We need to improve our competitive position. The US economy is going to do better this year and we think exports will do all right, but so what? If you look at a lot of the forecasts, you'll probably notice that imports are still growing fairly rapidly, and that reflects the fact that we're not competitive.

We have to make sure that we import less. Even if we import less and export the same, we're going to do better. The idea is to get our competitive position up so the share of exports we actually produce in Canada goes up. It's not just waiting for the US. If you go back to 1982 and 1974-75 and look at the previous recessions, you find out that this recession is above average in terms of export performance. The trouble is that we're not producing any of those exports, we're only producing part of those exports. I don't know if that's confusing. It's just that we're not adding much value to the exports.

On the US side, the implications for Ontario and Canada are, one, there's going to be stronger growth so our exports will do okay. That doesn't guarantee growth here; it guarantees that exports will still flow. Secondly, inflation will remain low in the US, so that will mean we'll be able to keep our inflation rate low in Canada, because we import so many things from them. Interest rates are not going to go up, skyrocket in the US, so that allows us to keep our rates down, and that will help us out. Those are the implications of what's happening in the US.

If you look at the three charts I have following that page, you'll see US inflation, US growth and US interest rates and how Canada follows them around. That will give you an idea of what I'm talking about.

The rest of what I want to talk about is really what's impeding Canada from performing in the next few years. If you go to the page on structural change in Canada, these I think are the major reasons we're having difficulty in this country. In the early 1980s and the late 1970s, we had very poor productivity performance, and this led to a number of changes.

Governments felt they were the reason we had poor performance, so they started putting into place a number of different policies: deregulation, privatization, tax reform and so forth. The impact of these policies is to cause people to change what they do. Obviously, that's what we're trying to do. Governments go in and say, "You should produce this," and they do that by subsidizing industries and offering preferential taxes. If governments take that out, it means the industries that were previously profitable are no longer profitable and those products don't get produced. That means the people who were working in those industries have to change jobs. That's structural change. You've heard about that.

What we've had over the past 10 years is a lot of structural change, and that raises what we call structural unemployment. It's difficult for people to change jobs, so one of the things these changes are doing is making it more difficult for us to keep unemployment rates low. If people don't have jobs, they're not buying things, and governments can't raise revenues if nobody's buying anything, because they tax things. It makes it very difficult. Structural change is causing us difficulties and will continue to cause us difficulties over the next few years.

The Canada-US FTA is just like the other ones. It's just changing where resources go and it's causing difficulties. The GST was another example. You're saying, "We're going to tax services now and we're not going to tax goods so much." That means that people who are in the service sector are going to do worse than they did before and people in the goods-producing sector are going to do better than they did before, and resources move. If you happen to get caught in the middle, you could be out of a job and you're in trouble.

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All these things are going on, and the implications of free trade and GST and NAFTA and so forth are going to continue to cause that over the next five years. We're going to have people losing their jobs and having to move to different jobs, and it's just going to be a difficult adjustment. The household sector is going to bear a lot of the burden of adjustment because those are the people losing the jobs. But that's going to happen.

The impacts of this are positive in the long run, but unfortunately, in the transition period they are not necessarily positive. So if somebody says that free trade has a positive impact, you have to ask if that is in the short run or the long run. I think in the long run it does, but for some people it's going to cause trouble.

Governments, the federal government in particular, suggested it would provide funds for adjustment of people; it never did. So what we've done is decided that we're going to impose all these policies and not help people out. That's causing difficulty for people, and that's going to make it difficult for the economy to perform strongly over the next few years. But once we get all these adjustments taking place, then we will be in better shape.

Two of the areas I think that have caused and are continuing to cause severe problems are government deficit reduction and zero inflation. We've decided now that government is too big and we want to get it out of the economy. That's a similar structural change to everything else. You're saying that government consumption is too big, so we have to reduce. If I sell to the government or you work for the government, you're in trouble; you're not going to be working for it any more, and I can't sell you anything. So that's another structural adjustment.

In the longer run, that means that more resources will be devoted to the private sector, which, depending on your ideology, is good or bad. But it implies structural change: people are going to be out of work, some of us who sold to government have to find new customers and so forth. So there is going to be damage done in the short term. In the long term, you may end up giving more money for private investment, which will make you better off, but there is this transition period during which you're going to cause difficulties. But you don't get something for nothing. Somebody said that just before I got here. If you're going to make these changes, you've got to pay for them. There's no free lunch in this case. There have to be adjustments made or we don't become more productive.

We see over the last two years that where governments have been trying to reduce deficits when there's a recession, it makes the thing worse. That's what governments have been doing for the past three years; they've been making a bad situation worse by trying to solve deficit problems. That's okay in the long run, but you can ask yourself, "Should we be reducing deficits in a recession or should we wait till the recovery comes?" There was no excuse for not trying to reduce the deficits in the late 1980s. In 1988 we could have reduced the deficit dramatically, and we didn't; we increased it. Now we're trying to do it in a recession. It's not a good idea.

What's going to happen over the next few years as governments try to wind down these big deficits? I predict that we're going to lose 0.5% off growth every year for the next five years because we have to reduce the deficit. So the government deficit in the country is about \$50 billion, which is 7% of Canadian GDP. We've got to take 7% out of the economy in the next five years to balance the budget; that is a lot. So in a sense you're taking 7% of GDP away to balance the budgets. It will in the longer run lead to lower interest rates etc, but it's going to cost us. So don't expect anything else other than slower growth because of it. It's going to cost. That's going to make it difficult. To try to reduce deficits any more quickly is going to make things worse, not better.

Zero inflation: I think that's caused considerable damage to the economy. The main reason it has is that nobody has gone along with it. None of you were willing to take salary cuts; I wasn't either, but I am now. In fact, I did anyway.

Ms Swarbrick: Three years of freezes.

Mr Stokes: Freeze isn't enough. Your salaries have to all be cut. It's not good enough, and I'll go through why. The main problem here is that the Bank of Canada has decided to go to zero inflation. When you do that, you have to get everybody to change their expectations of the future. Nobody went

along with the bank. They just ignored it, and that's the reason we've had a severe recession.

In order to get inflation down, how do you do it? Nobody here will willingly lower prices or wages, will they? So you've got to threaten them. You say, "If you don't lower your wages and prices, I'm going to put you out of a job or put you out of business." That's how monetary policy works: It has to frighten people enough that they won't ask for big wage increases, or it has to bankrupt businesses so they're afraid to raise prices or they actually lower them. That's how we do it in this country. We have to be honest about it. That's exactly how it works.

If everybody went along with the governor of the Bank of Canada and lowered their wages and prices, there wouldn't be a recession. It's as simple as that: All the wages come down, all the prices come down, no effect on the economy. But the way we get it down is to put people out of work so that they won't try to get high wages, and we put businesses out of business so that they'll lower their prices. That's exactly what we've been doing since 1988, and that's why we're in so much trouble. The impact of this is going to continue over the next few years.

What I want to go through now is what I consider the major transitional problem. If you go to the next chart, which says "Canadian Exchange Rate," there are two lines there. The bottom, the dark one, is the actual value of the Canadian dollar, like 80 cents. The top line is a measure of the competitiveness of Canadian manufacturing relative to US manufacturing. The top line going up means the costs in Canada are going up relative to the US. That top line is made up of two things. It's made up of the Canadian dollar, because I have to put both costs in the same currency. So as the Canadian dollar rises, our costs rise relative to the US. It becomes more expensive to buy things from Canada. The line will also go up if our wage rates go up faster than the US or if our productivity grows slower than the US.

So there are a number of things in there: If the dollar goes up, our cost competitiveness worsens; if our wage rates go up faster than the US, our cost competitiveness worsens; if our productivity goes up slower than the US, our cost competitiveness worsens. All those factors can make it difficult for manufacturers to compete.

Why is Canadian manufacturing, in particular Ontario manufacturing, in trouble? You just look at that line. Since 1986, the competitive position of manufacturers in Canada has deteriorated almost 50%. Why? Part of it, you can see, is the dollar; the dollar has gone up. The other part is the fact that we've been paying people too much money in this country relative to the US, and our productivity performance isn't keeping up. You must have seen these numbers, this story before. This is a serious problem. What is the consequence of this? We've seen what's happened to manufacturing in this province.

If you look at the next chart, we have the current account balance, which is essentially the trade balance, the exports minus imports, as well as the interest payments that we pay to the rest of the world. As a percentage of GDP, that simply tries to adjust it for the size. The bigger the negative number, the worse the current account deficit is. So if you look at the two charts, you see that cost competitiveness worsens and the

current account worsens. So what happens is that as we become less competitive, we export less and import more. So the consequence of the rising costs in Ontario and Canada has been a deterioration in our current account balance. It's a terrible trade balance, the biggest current account balance we've ever had. It's a record.

The other consequence is the next page, which is the share of profits in GDP. If costs are going up and we're not selling anything, we're in trouble. Profit share of the economy now is the lowest it's ever been. This is all a consequence of that one chart, our cost competitiveness. You can argue, "What about the rest of the economy, not just manufacturing?" Oil and gas prices are fixed in US dollars. If the Canadian dollar goes up, their prices go down in Canadian dollars; they lose money.

What has happened is that since the mid-1980s our costs relative to the US have gone up, and that's basically been a result of the industry and one policy. The one policy is the Bank of Canada tightening up monetary policies. This caused the exchange rate to go up, and that's contributed about 20% to 30% of the increase in the costs. The rest is because our wages are going up too fast relative to the US and our productivity hasn't been matching the US; it has actually been growing slower than the US.

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This all started quite a while ago. In the 1980s the US went through a period when its exchange rate went way up. Remember when Reagan came in? The exchange rate went way up in the United States. Do you remember the rust belt stories in the US? Well, we're the rust belt. The same thing is happening here, only it's happening five years after it did in the US. In the US, what happened is that the exchange rate went up and the manufacturing sector became completely uncompetitive in the States. What they did is they restructured. They moved from the northern states to the southern states to take advantage of lower costs, all sorts of structural change, which is continuing to go on. One of the consequences was that productivity went up in the US quite rapidly and the wage rates didn't grow in the US at all, adjusting for inflation in the 1980s. Not so in Canada. So what happened is that we're five years behind the US in our adjustment to this situation.

What has to happen in the future for us to get out of this mess? I call it a mess. We have a terrible current account deficit, we have a terrible profit position and we have terrible government deficits. The government deficit is of course completely associated with this problem. If government revenues fall it's because profits fall, because you get corporation taxes. Employment's fallen apart because of this. You lose all your personal income taxes. That's what it is, and then your expenditures go up because of high interest rates, which are associated with zero inflation, and also because of your social assistance payments. These have all gone up, and it's all because of this problem.

This is only labour-cost competitiveness in this. It doesn't include the cost of capital, which is also higher in Canada. It also doesn't include a lot of the property taxes and other taxes in Canada that affect the cost of doing business here, and I don't think you could argue from a tax or the cost-of-capital point of view that we have an advantage over the US. So one

of our major problems in this country to solve or to get out of this situation is to reduce costs relative to the US.

What we see in our forecasts is a suggestion, but it's very painful. If you go back to the exchange rate table, the solution to our problem is to get the top line down, which means to get Canadian costs down relative to US costs.

How do we do it? I gave you the three sources. One is that the Canadian dollar can come down. Wage rates can fall relative to the US or our productivity can grow faster than the US. Everything you hear out there is some combination of these.

Why we are so preoccupied with productivity and competitiveness in this country is this: Productivity has got to go up, and productivity is going up, and wage rates aren't growing as fast as they used to and the dollar's coming down, so this is all helping.

A lot of this governments can't do anything about. Some of them are structural problems they really can't do anything about. Fiscal policy can't handle this in the short run. You can stimulate the economy. This is why when you see exports increase, you don't see the GDP increase, because we're not producing GDP any more. We're exporting things we've imported. We're adding just a little bit to those products and reselling them.

If we can get this line down, we can start getting a bigger share of those exports that are attributable to Canada rather than to some other country. The solution is to get that line down. This is difficult.

You have to remember, first of all you could say: "Well, we've got wages growing slowly in this country now. They're growing much slower than they used to." That's not good enough. They have to grow slower than in the US. If US wage settlements are 2% and ours are 2%, that doesn't do any good. We're not improving our competitive position; we're maintaining our bad competitive position. If our productivity growth in this country is 2% and it's 2% in the US, it doesn't do us any good. It's got to be better than theirs.

What's the way out? If we can't have lower wages and we can't have higher productivity, what's the way out? The dollar falls apart, right? The dollar's the safety valve in this. If the dollar can come down, what happens is that we improve our competitive position, and that's what it has done. The reason the dollar fell from 88 cents or 89 to where it is now is because of this. We cannot support an 89-cent dollar with this current account problem and this profitability problem. You've got to get this competitiveness problem solved, and the way it always gets solved is some combination of higher productivity, lower wage rates or a lower dollar. In the US they solve their competitiveness problem to a large extent by exchange rate depreciation. If you look at the US dollar, what happened is that from 1985 on it collapsed, absolutely collapsed, and that helped them out.

Now, what's the problem here? Why can't we just have the dollar come down? Remember I talked about zero inflation? John Crow says he wants inflation at 1% to 2% for the next five years. If the dollar comes down, what happens? Well, we import 25% to 30% of our products. If the dollar comes down, our inflation goes up. The rule of thumb we use is that if our imports are about one third of our consumption,

then if the dollar comes down 10%, our inflation will go up 3%, one third.

Ms Swarbrick: Or we choose to buy Canadian.

Mr Stokes: That's right. You can do that. If you can get people to buy Canadian and not go to the Price Club etc, that's fine. I won't argue that. But the point here is that the dollar depreciation route, which is normally used, which has been used for ever—we did this in 1971, in the mid-1970s etc, we've depreciated our way out of these problems every time.

What Crow is saying is that, "No, you're not." He's come down 10%. That's what we've come down now, about 10% on the currency. He's saying here, "We don't want it to come down any more." Why are interest rates still high? Why did they go up in the fall? Partly it was the Constitution, but that was associated with the dollar, wasn't it? The Constitution caused the dollar to be weak. I don't like attributing a lot of the constitutional problems—

The Chair: Ernie, can I just break you here, because—
Mr Phillips.

Mr Phillips: I have to go. Not that I'm not keenly interested by this.

The Chair: I know Mr Sterling didn't get a chance to ask any questions last time and I think there are some questions of the committee. If you could just sort of wind up.

Mr Stokes: Two minutes, I'll finish it up.

The Chair: We can wind up going to the two parties that are left here.

Mr Stokes: The main point here is the banks are not going to let us depreciate our way out of this unless we fire the governor. That may happen in the next election, but I think that would be a mistake. Anyway, we can't depreciate our way out of this, so the other thing is that when I mentioned that zero wasn't good enough for wages, it isn't. This is a 50% loss in our competitive position.

Now, you're always nervous about data, but what we're looking for is a 10% to 20% reduction in wages relative to the US. Nobody's going to do that here, are they? We can't convince people to do that. We've got to cut our costs. So if you eliminate wages, that leaves productivity. One of the reasons you're having a high unemployment is that firms can't get their wages down, but they've got to get their costs down, so they just lay off people.

The exchange rate isn't allowed to come down, so they can't recover their competitiveness that way. It all goes out the unemployment rate. That's what's happening. Interest rates go up and the unemployment rate goes up. That's why we are forecasting high unemployment for the next five years. It's simply that the only solution to this problem is increased productivity. We think the dollar will come down more, but the bank won't let it, so it's a long painful process. The major adjustment we have in this country is to get businesses more competitive.

Another solution, of course, is to reduce business costs through taxes etc. If you start imposing taxes and so forth, it increases the business costs to doing business. Goodbye jobs. It's simple as that, because they have this problem faced and if you raise their taxes and let the dollar depreciate, then

that's fine, but if you raise their taxes and don't let the dollar depreciate, they're dead.

That means unemployment is going to be the residual and that's exactly what the unemployment rate has done. It's gone up to try and solve this problem because you're trying to solve it all through productivity, which is not possible in the short run. I'll stop.

The Chair: We'll lead off with Mr Sterling.

Mr Sterling: I think you told us the same story as our first witness here today, that basically those who have jobs have been too greedy in the last five, six, seven years in terms of taking more out of the economy than they're entitled to. Is that correct?

Mr Stokes: If you're a true capitalist-type person, you try and get as much as you can; it doesn't matter. I guess the problem is that when we talk in economics about the efficiency of the market system, we're assuming there are no labour unions, no wage restrictions etc, that the regulated industries are a minor consequence and so forth. What happens is that if you're a competitive industry, your wage rates don't grow much. If you look at a lot of industries, that retail trade sector, they've been taking wage cuts and a lot of industries have been taking wage cuts.

The hydros etc are not taking wage cuts. Government, zero, that's a good idea. I think that's a good idea as a signal to the private sector that we can't have high wages, but if you've got major power groups' ability to extract—we call them rent seekers—if they have the ability to extract high wages and we don't stop them, we can't solve the problem. So I wouldn't call the people greedy. The basis of our whole system is that if people maximize their own wellbeing, we'll all be better off, but that presumes there's no major power groups.

You may be right in the sense that there have been some areas of the economy that have market power or the ability to raise their wages and they've made it worse for everybody else because if the governor of the Bank of Canada says, "I want 2% inflation," and the regulatory agencies or the governments are giving 5% wages, that must mean the rest of the economy's getting zero or negative.

It's an income distribution issue here. The people with the power get what they want and the rest of the people—well, I'm a small business person. I'd like to get zero. That would be nice. So I guess that's what it is. It's a matter of certain groups get the higher wages and—

1220

Mr Sterling: If it's income distribution, which was Mr de Bever's argument as well, then that says to me that the function of government is to change the labour policy to make the powerful less powerful.

Mr Stokes: Labour and business, because—

Mr George Mammoliti (Yorkview): Change the mentality of the capitalists.

Mr Stokes: No, it's not labour necessarily. If you have market power, if you can control your price, then you're just as bad as the labour union. Suppose you're a big firm, an oligopoly, a big set of firms, and you have a labour union working for you. They raise their wages or you'll give them

their wages, because you figure you can just pass it on to the consumer.

Mr Sterling: I agree, but the profit pictures that are presented to us don't say that business has the power. They don't have the flexibility.

Mr Stokes: I asked some business people—for example, in 1991, wages went up by 5% in manufacturing and prices went down by 2%. How do you explain that? I asked the manufacturer: "What's going on here? How come you're giving your employees 5%?" They say, "If I don't give my employees 5%, they'll go on strike and I'll lose my market share." Dead, because it's an adversarial system. The workers in the firm have no perceived incentive to go along with the producer. As long as it's adversarial, you can't do anything about it. I mean, that's how our system works. You go out and try and get as much as you can and the other person does, and that should all—that's Adam Smith.

Mr Sterling: But that relates to the power that various groups have in society.

Mr Stokes: That's right.

Mr Sterling: All the evidence that's been presented to me today says that the powerful groups have done okay, but they have done so at the expense of costing jobs to the less powerful.

Mr Stokes: The purpose of competition policy, for example, or free trade is to stop those powerful groups. In other words, if you have a lot of competition, you don't get anybody with power. So free trade opens the border up. Look at what's happening to the retail sector in this country. I saw a show on TV last night where they were talking about a 25% reduction in prices because of the new retail structure. I think you have to have competition.

In the case of hydro or something where it is a regulated industry, then it's really up to the regulators to make sure that they're going along. But in terms of overall competition policy, I think free trade is good for that, or trying to make sure that you don't have industries that misuse their power. But that's difficult.

The Chair: We have two minutes left. Mr Carr.

Mr Carr: I have a quick question and it's kind of a strange question. It doesn't relate to any of the figures. As we sit here, one of the things that strikes me is that economics are fairly simple. Yet in our education system, unless you go on to universities or colleges, you don't take economics and many don't understand.

We heard the previous person talk about how without having US exports we would have been in trouble, yet if you ask 80% of the people in this province, they would say, like the government does, the problem is the free trade agreement. The statistics don't show that. One of the problems we've got is, people don't understand economics. As an economist, do you think we should be teaching economy to our kids and, if so, at what grade? High school? At what grade should we be teaching economics to the people in this province?

Mr Stokes: I think they already teach it in high school right now, so I'm not sure. Economics is not very exciting when you're a high school kid.

Mr Carr: It's probably not worse than math or anything else.

Mr Stokes: They take it and they read it; it goes in this ear and out this ear. It's even tough for adults to read. Somebody told me once that you should keep an economics book beside your bed if you want to go to sleep at night.

Mr Mammoliti: I think that as well as economics we should have some courses, perhaps mandatory, in terms of labour relations in our high schools. That's a personal opinion. I think that would go a long way in perhaps bringing a better relationship in the workforce, something we have got a lot to learn about here in Canada.

That leads me into my question. In some of the countries in Europe the labour unions and employees have the ability to perhaps sit on boards of directors or make the crucial budget decisions in companies, which is not possible here. Do you think perhaps one of the government's responsibilities, and perhaps a way in which government can participate in getting a better relationship in terms of understanding company budgets and in terms of understanding the crucial decisions that would mean keeping a business afloat or going under—do you think government should perhaps do something in the way of having labour or perhaps educating the public on the benefits of having labour involved in their boards of directors, opening up the books per se, so that decisions such as those 5% raises that you were talking about earlier might be easily rectified without folding the company? Do you think that this might be a way of—

Mr Stokes: No. I think the adversarial system is what's causing the trouble. Let's put it this way: You get a 5% raise, you still think you're working. What is a union bargaining for? Are they bargaining for jobs or wages? The example, I think, was given that Air Canada wanted to bargain for the GST. They gave their employees the GST wage increase, but then they laid everybody off. So you got the wage increase, but you didn't get the job.

I guess to the extent that the employer and the employees can get together and agree on what's going to happen, it's got to be a positive outcome. If you're there and you're basically saying, "I want a bigger share of the pie"—

Mr Mammoliti: How do we do that? I don't think we're going to have a problem with convincing the labour unions that this is a good thing to do. I think where we're going to run into a problem is with corporations and companies and the head honchos in some of those companies. I think they're the ones who would say: "No way. I'm not going to have my employees looking into my books." How do we do that as a government? How would we go about doing that?

Mr Stokes: I'm not really sure how you actually do that. I think it's a necessary thing. The problem is the mentality. You said you thought you could convince labour unions. I've heard that it's like the concept of profit-sharing. Some unions don't want to have anything to do with that.

Mr Mammoliti: Perhaps a long-term approach, like education, labour relations courses in high school—that's mandatory labour relations courses in high schools—that sort of thing might help.

Mr Stokes: Yes, if it makes people think differently. It's got to be cooperation. That sort of system works under ideal

conditions. When you go back to Adam Smith, as I mentioned before, his system worked well because nobody had any power. Once that system breaks down, once people get power, you're in trouble. Why would you give a 5% salary increase when your prices are falling? It means somebody's got some power over you. Because you're insane; you know you're going to lose money.

What happened in the past is, when manufacturers or exporters gave these big wage increases, they simply knew that the dollar would depreciate by the amount and they got away with it. If you go back to 1976—remember, competitiveness was a problem in 1976—when we put wage and price controls on, the wage increases that were granted in the early 1970s never led to problems because the dollar depreciated. It went from \$1.03 to 85 cents. Manufacturers don't care. They got their wage increases back through the dollar depreciation and higher prices.

What the difference is between then and now and what's making the difficult situation is the fact that the bank is saying, "Forget it, we're not going to let you do it this time," and I don't think it should.

Maybe if the unions and management realize that we can't do this any more, they will cooperate. There has to be some incentive. I really believe in incentives. If a union has no incentive to bargain or to cooperate with management, or vice versa, then they won't. It won't do any good. If the unions continue to think that management's trying to screw them or whatever, it won't work. Maybe education will help, I don't know.

The Chair: Ms Harrington, and at 12:30, I'm dropping the mallet. This committee will be dismissed.

Mr Brad Ward (Brantford): Maybe we should have more questions.

The Chair: At 2 o'clock, okay. The floor is yours.

Ms Harrington: We heard yesterday that this was a policy-induced recession, groups such as the Department of Finance, the Bank of Canada causing this recession to some degree. In your paper you also state here some degree of agreement—I'm interpreting anyway—that is, the structural change that you've seen in Canada coming from government, such as deregulation, the privatization, the free trade agreement, GST, deficit reduction and the zero inflation policy. Would you not say that we should therefore fire that government?

Mr Stokes: Put it this way. I like every one of their policies, but I don't like the fact that they put them all together at one time and threw them at us. I think every one of the policies was designed to make us better off. The problem with it is that they threw everything together at once in the middle of a world recession.

I did a paper last year trying to sort out what was the main reason for the severity of the recession and I came to the conclusion that monetary policy was. The Bank of Canada's goal of getting inflation down was the major reason for the severity; not necessarily the recession, but it was worse in Canada. That was one reason it was worse. The world recession also explains part of it. When you think of it, a lot of people are upset at the Conservatives, at least in terms of the coordination of the policies.

If you put in free trade at the same time you try to go to zero inflation without asking anybody, then you throw the GST on top of that, look out.

Ms Harrington: You would agree that it is a policy-induced recession.

Mr Stokes: Yes. I guess the problem is, and what I fault the government for, is not getting the cooperation of the private sector, because the private sector never went along. They put the GST on and the first thing everybody said was, "I'm getting it back through higher wages."

You're asking for it. You can't inflate. It's a tax increase. It's like what you're doing is, they raise your income tax, you go out and demand higher wages to get your income tax back. It doesn't work. So it's not just the government's fault. It's the government's fault for not getting the cooperation of everybody in doing it. Zero inflation is a good idea, but don't do it when nobody will go along with you. It's like I said. The way we get inflation down is to put people out of business or out of work, and that's what they did. That's the only way it works when we won't go along.

I would fault the government for the implementation of the policies, not for the policies per se. I like the policies, but the implementation was an absolute disaster. But I'm not sure. The government in Ontario, when you try and implement policies, if you do it when the people disagree with you and you impose a policy that they should go along with, you're asking for trouble.

Ms Harrington: I think that the last line here is that we need total commitment to restraint.

The Chair: I'm sorry. It's 12:30, Margaret.

I'd like to thank Ernie for appearing before this committee. We'll make sure that he gets a copy of Hansard. All your remarks will be in Hansard. Thank you for attending.

This committee will be recessed until 2 o'clock in room 151 this afternoon from 2 until 4. If everyone will note on their sheet for tomorrow, we actually start at 1:30 in the afternoon, not 2 o'clock, but you can sleep in an extra half-hour because we're not starting until 10, not at 9:30.

The committee recessed at 1234.

AFTERNOON SITTING

The committee resumed at 1404 in room 151.

HON FLOYD LAUGHREN

The Chair: I would like to welcome everybody to the standing committee on finance and economic affairs. This afternoon we have the Honourable Floyd Laughren, MPP and Treasurer of Ontario, coming before this committee. Mr Treasurer, go ahead.

Hon Floyd Laughren (Treasurer and Minister of Economics): With me at the table are David Trick and Simon Rosenblum from Treasury. I want first of all to thank you for the invitation. I always enjoy spending time with my peers. I sometimes get withdrawal symptoms when we're not in session. I'm joined now by Jay Kaufman, who is the secretary of treasury board and deputy minister in Treasury.

I want to do a couple of things this afternoon, with your permission, Mr Chair. One is to give an overview of what I think will interest the committee as to what we're doing in an attempt to help rebuild the economy, to the extent that governments can do that, to provide an update on the budgetary initiatives that we've already announced and to make some comments about what lies ahead, and then, perhaps even more importantly, to have an exchange with members of the committee. I'll try and move fairly quickly because I know it would be unfair to use all of the hour that's available for me to make a speech to you. I don't think that's what committee members want.

The committee members have been distributed a package of information, I hope. The first one is entitled "Recession in Ontario," which shouldn't come as any surprise to committee members. I assume all committee members have that information.

I think we all know how seriously the recession has hit Ontario. In all of Canada, between three quarters and 80% of all the job losses were in this province. Manufacturing has been the hardest hit of all. That's made it very difficult.

The problem has not been made any easier, quite frankly—and I really believe it's important to speak directly and bluntly to you today—by the very serious offloading that's been done by the federal government. I won't get into a long tirade there, although it is tempting, believe me, because of what they have done on transfers. Most members will know that less than three years ago, the federal government was paying about 50% of all our health care and post-secondary and social assistance costs. Now it's down around 30%. While the absolute numbers have gone up, for obvious reasons, their proportion, their share has dropped that dramatically and we've had to pick up the balance. Obviously, that's had a very serious effect on our fiscal situation.

We also are absolutely convinced that the monetary and fiscal policies of the federal government have played a role in that. On December 2, the federal Minister of Finance, when he made a statement in the House of Commons, referred to the policies of his government for the last eight years and indicated that he thought those policies had positioned this country well for recovery. I must take issue with him. Although I do believe in the fundamental strength of the Canadian economy and the

Ontario economy, I simply cannot bring myself to support the policies of the federal government for the last eight years.

On the second sheet that you have, which is entitled "Shattering the Myths," I want to spend a little bit of time—I'll go through this fairly quickly—talking about some of the myths that have been spouted by the federal government people over the last number of years.

The number one argument the federal Minister of Finance keeps making, and I've heard the Prime Minister refer to it too, is that tight monetary policy has lowered the inflation rate and that this was a big plus for Ontario. I would remind you that it has done so at the price of the highest unemployment rate in the G-7 countries, and that the higher interest rates and the higher dollar level it has promoted have indeed led to higher deficits in this country.

Also, the impact of the free trade agreement has been negative, both in terms of Canada's trade balance and employment. That is in spades in this province, which is why I made special reference to manufacturing being in such a decline in the last couple of years.

I'm also very concerned that NAFTA, the North American free trade agreement, will, if anything, make matters worse because it's not going to relieve us from the problem of future trade harassment by the United States. We're already seeing that now—not as a result of NAFTA—with the steel industry. I'm worried that while the free trade agreement indicated there was going to be an agreement on problems such as with steel, with NAFTA that's not going to happen now. That removes it. So we're very worried that we'll see a continuation of what I would call harassment at the trade level such as we're experiencing with the steel industry. I really believe that NAFTA is not going to get us where the federal government thinks it will get us and will not have the benefits it seems to think it will.

1410

Ontario has done some things to try to cope with the recession, because if there's one component of it that's hit us the hardest, it's the impact on our revenues as a province. We've worked very, very hard on the expenditure side to contain the growth in the expenditures. I think we've had some success in that, although of course when your revenues are plummeting the way they have in the province, it becomes very difficult to match the revenue decline with parallel reductions in expenditures without really decimating essential services in the province.

Excluding debt interest this year, spending in Ontario is going to be growing by 2.8%. If you took out social assistance, which is a statutory requirement for us, there's virtually no growth in expenditures at all in the province this year. I think that's a major accomplishment, given that the rate of spending growth in this province in the last 10 years was very substantial. Because it was on an incline like that, it's not easy to simply turn off the tap overnight when a recession occurs. It takes time to get that under control, because it certainly wasn't. We've had some success at that, however.

I want to make one other comment on the free trade agreement, because I heard Mr Mazankowski talk about how

there had been record exports to the US since the free trade agreement. While that's true, there have also been record imports from the US, and I suspect those imports would have even been higher if it hadn't been for the recession in this province.

In 1987, for example, we exported \$13 billion more to the US than—in goods and services; I'm not talking about interest and dividends and so forth. By 1991, that surplus had dropped to \$3 billion. So it's fine for the federal government to talk about how wonderful free trade has been in terms of record exports. They always fail to ignore the other part of the equation, namely, imports, and that certainly has caused us some problems as well.

Despite those factors, however, we have an obligation to get on with it and to do what we can as a province to rebuild the economy, and I won't dwell further on that.

The next sheet that you have before you deals with "Ontario Government's Economic Action Plan," because from time to time I hear people say to me: "Well, do you have a plan? We know you're in a recession. We know your revenues are down. We know your expenditures are difficult to control. Do you have a plan at all to get us out of this recession and take us where you think we should be going?" There's a very simple graph—

Interjection.

Hon Mr Laughren: Each one of those is expanded upon later, Mr Carr, if you will just be patient.

Mr Carr: There should be more.

Hon Mr Laughren: It is divided into two sections. One is a "Response to Economic Downturn" and the other is "Response to Structural Change," because I believe most people acknowledge that this recession has two parts to it. One is the cyclical economic downturn, the other is the more profound structural change that's going on underneath this. We've tried to respond to both of those components.

If you look to the next chart, Mr Carr, you will see that we're trying to deal with the economic downturn part of it in the ways that are on this page. It says that the Jobs Ontario initiatives that we announced in the budget, the non-profit housing initiatives—I won't go back, but the previous year we did the \$700 million anti-recession package as well and announced the manufacturing recovery program in the previous budget. So that's the economic downturn component and the cyclical problem that we're trying to deal with in those ways. But some of those will also overlap into trying to deal with the structural problems as well.

The next slide deals with the response to structural change, the more profound changes that are going on underneath this. You can see, if you look at all of those initiatives, they add up to quite a bit. The training and adjustment initiative—we're spending \$930 million this year on training. That's a record for this province, ever. We've put a lot of effort into our Jobs Ontario Training. That's coming along. It started off slowly but we're getting there. It's a complex program, which I think was one of the reasons it started off slowly, plus the depth of the recession, but I think we're on the right track. There's the training and adjustment board initiative.

We haven't forgotten equity either. We've got employment equity, pay equity and minimum wage increases, which I think are important.

We're trying to elicit more co-operation with our partners out there. That's what the training and adjustment board does. The Premier's councils are at work. The changes to the Ontario Labour Relations Act, which some of you didn't like, nevertheless I believe are indicative of the direction in which we want to head, because they do indicate a need for more partnership at work out there.

Supporting workers in new roles—I'm talking about the Ontario Investment Employee Ownership Plan, infrastructure support, all the base capital spending. Keep in mind that what we've committed to capital despite the recession is also at record levels.

There's the industrial policy framework through our sector strategies and our sector partnership fund of \$150 million. There's the long-term financing we're dealing with through the Ontario Investment Employee Ownership Plan and the Ontario investment fund, which also has taken us longer to get off the ground than we thought, but at least we're still churning away there and we still intend to have an Ontario investment fund for members of the Legislature to examine and comment on.

We've also provided a lot of support for research and development and capital investment. Most of it was announced in the budget this year.

Those are some of the ways we're trying to cope with the structural problems we're facing out there.

Could we move to the fiscal outlook for 1993-94, because we're three quarters of the way through 1992-93 now. Keep in mind that we're going through the estimates process now in which all the ministries come before the treasury board with their expenditure requests. That is ongoing right now, so obviously I couldn't give you a final figure, even if I wanted to, for 1993-94 expenditures. We think we're going to be on track for our expenditure target that was laid out in the medium-term plan of \$53 billion for 1993-94.

You could say: "Well, that's nice. How are your revenues doing?" You will know we announced earlier that we know our revenues are going to be the problem. There's going to be a \$4.2-billion shortfall in meeting the revenue target we had for 1993-94 of \$48 billion. Obviously, that's a major challenge for us to try to cope with so that we don't get involved in too many tax increases, in letting the deficit go crazy and at the same time manage somehow to maintain the essential services of this province. That's our goal.

We've already announced some measures to deal with that and they're outlined here: \$600 million in 1993-94. That annualizes to \$1.2 billion in the following year. That included slowing down the pace of the introduction of pay equity, restructuring the Ontario student assistance program, freezing senior-level salaries and limiting grant increases to major transfer recipients.

Of course, I'm talking about our major transfer announcements there. That's 30% of our budget, so we felt we had to do something. We announced a 2% increase for 1993-94, but that will not be built into the expenditure bases of all those transfer agencies. They're going to have to go back to this year's level in 1994-95. That's going to be tough, but I think

when you're dealing with 30% of the Ontario budget, it's something we have to do if we're going to contain the growth in our expenditures and the growth in our deficit.

There are some very tough decisions still to be made, but we're determined to keep on track with economic renewal initiatives—that means job creation—with maintaining the essential services of this province and with keeping the deficit in check. It's a tall order, but I really believe we can accomplish it, perhaps not to everyone's satisfaction, but we're going to give it a good try.

The next page talks about managing better. It's taking one major ministry. Certainly, people in this room will appreciate the fact that health care spending is about a third of the budget, so if we're going to have major savings in the province, you can't do it without tackling health care. Hopefully, we're able to maintain the essential ingredients of our medicare system of which we're all so proud, but at the same time we've got to contain its costs. I don't think it's trite to say that if we're going to save medicare, we've got to contain the growth in its costs.

1420

This page shows the annual rate of growth of Ministry of Health spending from 1983-84 on. It averages over 11% a year. You can see that in 1986-87 there was a 13.3% increase in the growth of health care spending. It dropped then to 10%, then to 9%, then back up to 9.8%, 11.2%, 9.7% in 1991-92, and this year 1.6%. I hope you won't accuse me of boosterism when I give Frances Lankin, the Minister of Health, a bouquet for her efforts, because that has been a major effort on her part and on the part of the government. I give them a lot of credit for having been able to accomplish that. You know and I know, when you push a button in the health care system, you make somebody mad. I think Frances has been able to do it in a remarkable way.

Also this year, for every dollar in new taxes we were able to reduce the growth rate in expenditures by \$4. So we've worked very hard at that.

The next page has to do with the continuation of managing the system better. Fifteen ministries of government this year will actually spend less than they spent last year. I'd like to know the last time that happened. Keep in mind that I know people don't like our deficit, but the growth in spending this year will be the lowest in 39 years. That is an accomplishment in the middle of a recession, when there are enormous pressures on our health care system, our social assistance system and enrolments are going up in our education system. I really believe that's a major accomplishment.

Ministries' budgets have been cut by over 15% for travel, supplies, consulting and other overhead costs.

Salaries of cabinet ministers—I know you'll know this one—MPPs and senior management have been frozen. As a matter of fact, for cabinet ministers it's the fourth year in a row, and for MPPs I believe it's the third year in a row that salaries have been frozen. As someone who spent most of his life as an MPP without the increase in pay that comes with being in cabinet, I know that's not as easy as the public would like to believe it is sometimes, so I appreciate the efforts that have been made by MPPs.

We are on track to reduce the size of the public service by 2,500 positions over two years.

We announced \$400 million in savings in the budget. We're on track. We have achieved about \$350 million of that already. In our second quarter finances, because of revenue losses, we announced a further \$500-million savings by the end of the year and we're working away at that. We're not there yet on that \$500 million but we're getting there. If there are more specific questions on that, Jay Kaufman is the secretary of the treasury board and knows a great deal about that problem—not that he caused it, of course.

The next item has to do with the economic outlook as we look ahead. For 1992-93 you can see that real growth in the year we're in now will be about 1.5%, and for 1993, about 3.8%. Nominal growth, meaning basically with inflation built into it, is 2% and 5.5% respectively, and an inflation rate of 1.4% this year and 2% next year. Employment growth is negative again this year. That's a major problem, but at least a positive number for 1993. The unemployment rate is still disturbingly high at 10.8% this year and 10.6% next year. The unemployment rate is probably the part, when you look at it, that is most bothersome, because it doesn't drop dramatically even in the next two or three years. Along with that come a lot of other problems, as members of the committee will know.

There are, however, some good signs. The Ontario economy has grown about 3% since the spring of 1991, 48,000 jobs have been created since last August and CPI, the inflation rate, is low. The US economy seems to be firming up. There seems to be a recovery going on there. The uncertainty of the Canadian dollar may keep interest rates higher than we'd like, but the dollar has dropped by about 11% since a year ago, since the fall of 1991. That should help our exports, although of course it will add to inflation because of the finished goods that we import. So it will have that impact.

The next slide has to do with the sectoral outlook, and it's really meant simply to show where the growth will be in the next few years. This is between 1992 and 1996 and shows that the recovery is going to be led by the traditional industries such as housing and auto exports, that growth in consumer products will remain modest and that strong business investment and restructuring will underpin growth in business services and knowledge-based industries.

If you look at it, the highest there is the knowledge-based and business services sector, which in my view is a good incentive for keeping our expenditures up on education and training because that's where the growth has to come from.

It's a little disturbing if you look at the growth in non-residential construction, industrial materials and resources. You can see how low that is going to be, we think, and the physical and social infrastructure. But then it starts to build after that and you get all industries at 3.5% in real output and then the automotive sector, residential construction and the knowledge-based sectors accordingly.

The final paper in front of you is, as much as anything else, a challenge to this committee, if it chooses to take it. That's up to the committee, of course. I would appreciate your comments on this as well. I'm sure you've got your own questions, but there are three basic questions for the standing committee if it chooses to deal with them.

(1) Are there realistic limits on the amount of expenditure reduction that can be accomplished? What are these limits and, in particular, what services or groups in society should

receive special attention as spending plans are reviewed? You can interpret that to mean special attention in reducing the expenditures that are spent now or in terms of maintaining expenditures in particular groups or sectors.

(2) While tax increases are always difficult and of special concern in these difficult times, are there tax actions the government should be considering that are fairer or better for the economy than some of the spending reductions that may be required? In other words, where is that mix of tax increases and expenditure reductions, keeping in mind where the big expenditures are: in health care, education and social services?

(3) What about the deficit? Would letting the deficit go up be better than tax increases or some of the spending reductions that may be needed? Does letting the deficit go up buy needed time because of the cyclical nature of the recession or does it just postpone hard decisions because it's not just a cyclical recession that we're in, as we indicated earlier? How would it affect confidence in our economy if we do let the deficit go up?

Those are some of the questions I would put to you. We've got some tough choices to make. I'm not trying to pass off those choices to the committee. In the end, it's the responsibility of the government to make those choices, but believe me, your suggestions will be taken seriously as we start the pre-budget process.

I don't know how ambitious your plans are, Mr Chair, on the pre-budget consultations. Ours are very ambitious, as they were last year, where we bring different groups in at the same time. I'd be very interested in hearing any suggestions you as a committee might have, either now or later, and will try to respond to any questions any members of the committee might have, if of course they have any.

The Chair: Minister, how long do you have? Till 3 o'clock?

Hon Mr Laughren: Yes.

The Chair: And your staff will be here from 3 to 4?

Hon Mr Laughren: I don't think so.

1430

The Chair: I thought we were from 2 to 4. That's why I questioned.

Hon Mr Laughren: It's my understanding that the agreement was that we'd all be here from 2 to 3 and then we'd get on with other business, running the Ontario economy.

The Chair: Okay. Let's not waste any more time. Mr Phillips has the first question.

Mr Phillips: Maybe the staff could spare another hour for us some time. I mean, if you want some considered advice from the committee, I would think, as a matter of courtesy, we might have, maybe some time, another hour from the staff. I thought we were having the staff here for the rest of the afternoon.

Hon Mr Laughren: Perhaps we could work that out with the Chair, who will consult with the members of the committee.

The Chair: Fine. Ten minutes for the Liberal caucus.

Mr Phillips: I'm sorry about that note, but if you want our considered advice, we've got far less information from Treasury this year than we did last year. I thought we would

have more time to ask questions of Treasury, and I'm concerned about that.

The Chair: We'll arrange that, Mr Phillips.

Mr Phillips: I appreciate that. To help the committee along a little bit, Treasurer, I think when you announced the possibility of more taxes is probably when I got the most number of calls. I'm trying to understand why the revenue dropped by \$4 billion. I look at your forecasts and I see that revenue from personal income tax next year is going up by \$1 billion, revenue from corporate tax is going up by \$455 million and revenue from retail sales is going up \$220 million. Those are the big three taxes, and they're going up almost \$1.7 billion. That's 55% of your revenue. The other part of your revenue is dropping by about 9%. I guess before we understand why you need more taxes, we need to understand why it is that the big three taxes are generating revenue at three times the rate of inflation increases and you're seeing major decreases elsewhere.

My second part of the question is that I understand the expenditures right now are planned to go up by about 6% next year. That's your target plan, that you're going to increase your spending by about 6%. Why is it that you want to increase your spending at a rate three times inflation for next year, before we look at those two numbers?

Hon Mr Laughren: You're talking about 1993-94?

Mr Phillips: For 1993-94, spending is projected to go up at 6%, and the revenues I talked about, the three big tax revenues, are going up at a rate well in excess of three times inflation.

Hon Mr Laughren: I think this is the same kind of question you asked in the Legislature one day.

Mr Phillips: And I never got an answer there.

Hon Mr Laughren: Because I didn't understand it then and I'm not sure I'm in a much better situation today to understand what it is you're getting at, Mr Phillips.

Mr Phillips: You're saying your revenues have dropped by \$4 billion.

Hon Mr Laughren: Projected revenues.

Mr Phillips: Your projected revenues. I look at the personal income tax and it's staying the same next year as this year, but personal income tax revenue is going up by \$1 billion, corporate tax revenue is going up by \$455 million and retail sales tax revenue is going up \$220 million. If those are all going way up, what has contributed to this enormous decline in the other areas so that you have no revenue growth next year?

Hon Mr Laughren: First of all, the base of the increase of 1993-94 over 1992-93 is over a lower base, to start with. That is a factor. If you're talking about an increase over a base that's lower than you anticipated it would be, you're going to have lower revenues, right?

Mr Phillips: I'm assuming your revenue this year is \$44 billion and you're saying your revenue next year is going to be—

Hon Mr Laughren: But we've already announced that our revenues this year—and we've taken some action in that regard—are off by \$500 million; we announced that late in 1992. So the base is down, and we're not through the fiscal year yet.

First of all, you've got a lower base in 1992-93 than we had anticipated, so naturally any increase is going to give you a smaller amount of money because you're dealing with a percentage of a smaller base. Secondly, the recession is worse than anybody thought it was going to be. Not that I'm using the federal government as a benchmark for many things, but look at its problems with revenue projection as well. I mean, we're struggling with our revenues next year being off in the neighbourhood of \$4 billion from what we thought they would be; the federal government's deficit next year is going to be up \$10 billion over what it thought it was going to be. So I'm not surprised, as I sit here now, that we're not going to get the revenues.

Mr Phillips: I'm using your estimates from this document you put out about a month ago. You show in that document, a month old, personal income tax revenue going up \$1 billion from your September 30 forecast, year over year. I'm trying to get at why those three revenues would go up dramatically—

Hon Mr Laughren: Could I ask Mr Kaufman to try to take a run at this, because I'm not following you very well.

Mr Jay Kaufman: Let me deal, first of all, before the revenue issue, with the expenditure issue you raised.

Mr Phillips: The 6%?

Mr Kaufman: The 6%. With the budget plan we had would have seen, if the expenditure numbers were coming in at the originally projected level of \$54.4 billion this year—those are the original budget plan expenditure numbers—we would have seen just over a 4% increase. We aren't, at this juncture, in a position to be explicit as to what next year's expenditure numbers are going to be, but we have been taking those expenditure numbers down, as we indicated in the second-quarter Ontario Finances. We have targeted to reduce those expenditure numbers down below the budgeted plan expenditure numbers by about \$500 million. So the 6% you're referring to is against a reduced expenditure number this year. We'll see, as the Treasurer has said, at the end of the estimates process, the decision process we're into now, what the expenditure levels for next year will be. That's the explanation of your 6%.

Mr Phillips: You're saying that you're going to spend \$50.1 billion this year, you're going to spend \$53 billion next year. Is the 6% spending increase what we should look for?

Hon Mr Laughren: Could I add that there were no tax increases built into the revenue number for 1993-94, which would cause it to be lower as well.

Mr Phillips: All I want to know is why those three tax revenues are going up \$1.6 billion next year over this year and all your other revenues are dropping by \$1.8 billion. It doesn't add up, to me.

Hon Mr Laughren: The only thing I can think of is that, first, it was assumed that the fiscal stabilization plan, one of your favourite topics, would be built into our revenues for 1992-93 as revenues for 1992-93. If we don't get those revenues, then of course, once again, you've got a \$1.2-billion reduction in revenues for 1992-93. One can only assume that they would be made up in 1993-94, but we wouldn't have them in 1992-93, which would give you that much higher a base from which you'd be operating, because it's year over year.

Mr Phillips: I think we would benefit from Treasury staff giving us the same estimates on the revenue by tax that we had last year when we were working on the budget.

Hon Mr Laughren: You mean how much tax revenues it had collected per point?

Mr Phillips: No, how much you are expecting, where your revenue is coming from, how you're getting the \$43.8 billion. I know what you're going to get in personal income tax, retail sales tax, corporate tax. Those three revenues are going up dramatically, but all the other revenues are dropping.

Hon Mr Laughren: Because we do expect some growth in the economy in 1993-94, you appreciate that, and that would give us increased revenues in those areas.

Mr Phillips: I'll need the detail.

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Hon Mr Laughren: If you want more detail, please let us know specifically what it is you're after and we'd be happy to—

Mr Phillips: Because I think the numbers are very inconsistent: major growth in the three big taxes and huge declines everywhere else. That's factual, correct.

Mr Kaufman: As the Treasurer pointed out, I think that in this fiscal year, the projections include the fiscal stabilization. That's a one-time payment and therefore, in the next fiscal year, that is no longer an additional revenue source for us. So there are some major one-time-only revenues that are projected this year.

Mr Phillips: That accounts for part of it.

Mr Kaufman: We could easily sit down with you and the committee and give you a more detailed breakdown of the revenue sources. The fact of the matter is, as well, that there's the annualized impact, as the Treasurer mentioned, of the base drop that we've already indicated in the second-quarter finances. But in terms of more detail, we'll get that for you.

Mr Sterling: I had a line of questioning which was not too different from Mr Phillips's. You have said that your revenue forecast is \$43.8 billion, and there is suspicion that that is not true, and there was question brought forward by evidence in the committee by one of the economists who have met with us in the last day. I would like to approach it from the point of view of your nominal gross domestic product.

In your 1992 budget, on page 58, you estimate that your nominal gross domestic product is going to be 6.1% in 1993. I believe you have revised that today to 5.5%; that may take in effect either the year or the slopover of the year or it might be just a—and that goes back to a base before what has happened in 1992-93. In other words, that's a cumulative figure, the nominal gross domestic product increase, as I understand it.

Therefore, if in fact you're only going from 6.1% to 5.5% in your nominal gross domestic product and, as economists have given evidence in front of this committee, the ratio is usually in terms of government revenue to a drop or an increase in your nominal gross domestic product of .9 to 1, it seems that if you says it's going down by .6, you can therefore justify probably \$500 million of lost revenue in terms of what you expected, and you expected \$48 billion originally. Therefore, we have a great deal of difficulty in

believing you in saying that your revenue will drop \$4.2 billion in 1993-94 if in fact you are continuing to support the nominal gross domestic product increase of 5.5.

Hon Mr Laughren: Well, I hope you're right and that our revenues don't drop by what was in the fiscal plan.

Mr Sterling: But how do you justify it? Your nominal gross domestic product figure does not drop by five points. It doesn't go from 6.1 to 1.1 or less; it goes from 6.1 to 5.5.

Hon Mr Laughren: Right.

Mr Sterling: Therefore, you're justifying a drop of \$500 million from the \$48 billion. You see, the \$4.2 billion which you're setting us up to believe is not going to be there in 1993-94—we don't believe you, because you're not justifying it in terms of your other revenue projections and the growth figure. How do you marry those two?

Hon Mr Laughren: I don't know how to express it other than that's our forecast. I don't want to retell the ground we went over with Mr Phillips, but if the fiscal stabilization plan was to come in this year, it would boost our revenues by \$1.2 billion, but next year we wouldn't be getting that money—that's a one-time hit this year—plus the growth rate has been lower than anybody thought it would be. Secondly, you're talking about nominal numbers, which means inflation is built into them, and inflation has been lower than anybody thought it was going to be as well. So those lower the nominal growth rate—well, it's true.

Mr Sterling: But it's built into the nominal 5.5; you've taken into account the lower inflation. You're asking for it both ways. Even if we give you the 1.2, you're still out by about \$3 billion.

Hon Mr Laughren: Okay, but also in 1993-94 there were no tax numbers built into that and no asset sale numbers whatsoever built into that. We think we will achieve what we know inside government as non-taxed revenue measures, built into that as well. There are a number of components that lead us to think the revenues will be off by that amount in 1993-94. If they're not, I'll be the first to rejoice with you.

Mr Sterling: But you're not justifying the figures within your budget, which normally marry with each other. Economists have given evidence in front of this committee that they marry together. How will we believe the \$4.2 billion? I think you picked it out of the air.

Hon Mr Laughren: I hear you saying that you think our revenues will be higher than we think they'll be in 1994. What would be the purpose of our deliberately low-balling revenue numbers for 1994? Why would we do that?

Mr Sterling: Perhaps you're laying the groundwork for bad news on May 1 or whatever it is and then you're not going to come in with such bad news. I don't know. It's been tried before, I hear.

Hon Mr Laughren: Not by this government. Would you stop hearkening back to previous governments, Mr Sterling.

Mr Sterling: If your Treasury officials could justify for me the 5.5 with the \$4.2 billion, I would appreciate that in detail, because I would like to see where the \$4.2 billion revenue loss really is.

Hon Mr Laughren: Perhaps we can take another run at that along with Mr Phillips's request, because I think they're serious requests. If we can't satisfy you with answers here today, we will see what we can do, because it's not something we're trying to disguise. There would be no purpose to that. We don't need to construct a bad-news scenario, with the state of the economy in the last few years.

Mr Sterling: Can I ask one other question?

The Chair: Mr Carr is looking at asking a question, but you have three minutes left.

Mr Sterling: I have one other question. I've heard for a long time the complaint by this government about transfers under the EPF and the other. According to your own document, over the last decade the province is owed some \$15.5 billion. The document also says that all provinces are owed \$41 billion.

According to your statement in November, the province provides 43% of all federal taxes. If we take 43% of the \$41 billion to pay out EPF and everything else, that means Ontario taxpayers would be responsible for paying \$17.6 billion. Therefore, you're requesting the federal government to give us \$15.5 billion, but requesting the Ontario taxpayers to pay out \$17.6 billion. Why do you want to do this when we've cost \$2.1 billion to the Ontario taxpayers now?

Hon Mr Laughren: Wait a minute. That is strange arithmetic.

Mr Conway: It should appeal to you guys.

Hon Mr Laughren: If of all tax revenues that the federal government collects, 43% come from Ontario anyway—

Mr Sterling: That's what you said.

Hon Mr Laughren: —then it seems to me we should be getting back our fair share of that. If we're not getting our fair share—

Mr Sterling: You mean they've got extra money, have they?

Hon Mr Laughren: Well, wait a minute, Mr Sterling. Transferring their deficit to the province of Ontario and other provinces is surely not playing fair ball.

Mr Sterling: It doesn't matter. It's where they get the money to repay.

Hon Mr Laughren: I get a little upset when I hear Mr Mazankowski stand up on a soap box and point his finger at the provinces and say they're not controlling their deficits adequately. I want to tell you that if we could transfer our deficit to the municipalities and then wag our finger at the municipalities and say, "You've got to control your deficits," I suppose we could try to look like heroes, too, but that's not the way we're doing business.

Mr Sterling: Some would argue.

Hon Mr Laughren: That's the way the federal government is doing business.

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Mr Sterling: But the fact of the matter is, Mr Laughren, that if you get \$15.5 billion and the other provinces get their fair share under the programs, as it would be fully funded, the Ontario taxpayers would have to come up and pay \$17.6 billion to get \$15.5 billion.

Hon Mr Laughren: We don't pay 100% of the transfer payments to other provinces. We don't pay 100%.

Mr Sterling: I'm not saying you pay 100%.

Hon Mr Laughren: You're making it sound as though we're giving up more than we'd be getting back in transfers.

Mr Sterling: You would. The Ontario taxpayers would have to give up more, and that's what we find strange in your arguments in terms of complaining about the federal government not having more largess.

Hon Mr Laughren: The province has always been a strong supporter of equalization payments. We believe in the equalization principle. What we don't believe in is using other programs that are set up for other reasons, such as funding of health care and social services and post-secondary education, as equalization payments as well. We have equalization formulas out there for what are known as—I don't like the term—the have-not provinces. Then let's deal with equalization as an issue. Let's see if that's adequate. But don't use the other programs, everything from health care to the national highways program, as back-door equalization, because that's not the way it should be done. That's not negotiated; it's unilateral, and that's not the way we'll build a country where people feel good about sharing what we have in this province with other provinces.

The Chair: Okay, Minister, we're going to take a little different direction here. We've got Mr Ward with a question.

Hon Mr Laughren: How do you know if it's a different direction?

Mr Ward: Thank you, Treasurer, for coming before this committee to give your presentation on the present state of the economy as well as where we're heading in the future. We've heard from various representatives of banks and some economists earlier this morning and yesterday. They all seem to be in agreement that there is some semblance of a recovery, as shaky as it is, occurring within the province, if not throughout Canada.

I think there's a consensus that the recession we've experienced, starting in late 1989 or early 1990 really was twofold, that one was the normal business cycle downturn, but that it was also structural in the sense of something happening to our economy that hasn't happened before. I was wondering if you could expand on the structural changes the province is undergoing from an economic standpoint, as well as on page 5 where you outline some of our government's long-term objectives in dealing with that structural change. How do you feel these policies, such as the Ontario Training and Adjustment Board, the Ontario investment fund and the assistance for research and development can provide incentive or deal with the change in a positive fashion for the people of Ontario?

Hon Mr Laughren: To start at the beginning of your question, we know there are structural changes taking place. I'll give you one number that always sticks in my mind. In the recession of 10 years ago, about 25% of all the layoffs or closures were deemed to be permanent layoffs and closures. In this recession, two thirds of all the layoffs or closures were deemed to be permanent, so from 25% to two thirds were deemed to be permanent. To me, that's an indication of how much more profound this recession is than the one 10 years

ago. That's why it's going to stay with us and why unemployment is going to remain high for the next three or four years. It's one of the reasons.

Secondly, there is the decline in manufacturing. That's a pretty good barometer of whether or not there's structural change going on, the state of manufacturing.

Third—I always get in trouble when I say this, but I think I must—is the whole question of resource values. The traded value of resources in a relative sense is declining, and a lot of the strength of this province has been in manufacturing and resources. If that's the case, we've got to work very hard at increasing the value, or the processing that's involved, for example, in resources. We've got to do what we can to encourage the private sector to add value to the resources it takes out before it takes it out of the province; in other words, make manufacturing out of it and so forth. That is really critical.

For those reasons, to go to the second part of your question—don't let me get off track here, Mr Ward.

Mr Ward: Don't worry; I won't.

Hon Mr Laughren: The second part of your question had to do with how we support that, how we help make it happen. If you look at the bottom part of page 5, we talk about support for research and development and capital investment. That's exactly what the changes in the budget were supposed to do. In itself, it won't do it, but we like to think it was a signal that by increasing capital cost allowances, which are like depreciation allowances, it would encourage investment. We broadened what's called the superallowance for research and development so that there's a bigger deduction for research and development expenditures. We also gave a tax break for small business by lowering the rate of tax it pays by half of 1%—I think it was from 10% to 9.5%, as I recall the rates—and for resources and manufacturing. We really tried to do it on the tax side to encourage them.

On the other side, we said that if we are going through a profound restructuring out there, we had better try and respond in a public sector kind of way as well through training and apprenticeship programs. That's where we spent a lot of money this year. I mentioned earlier over \$900 million on training and apprenticeship this year. That's a huge amount of money, and we are setting up the Ontario Training and Adjustment Board which also will help with training.

There's been some criticism: "What are you training people for? What's the sense of training people if there are no jobs out there?" But it seems to me that now's the time to get people trained, to get them thinking about their future, get them into college programs so that as the recovery occurs, we're not scrambling. I think now is the time to do that. Also, quite frankly, it is a stimulus to the economy to be spending that money.

I could go through the whole list, but I think that's an indication of why we think it's a structural problem and not simply a cyclical one that will be over in a year.

Secondly, the long-term solution is going to be supporting infrastructures, supporting education, supporting training. That's all expensive, but I think not to do it would have us paying a larger price in the years to come.

Ms Harrington: We've heard some very interesting things in the last couple of days from economists, generally positive, but we do have difficulties, as you know.

I have two questions. First of all, yesterday we heard from an economist who said that this is a policy-induced recession, namely, the policies of the federal Department of Finance and the Bank of Canada. We heard again this morning in a list here about government structural changes contributing to it, such as deregulation, privatization, the FTA, the GST and the deficit reduction policies. Then he made a comment, in his words, something about, "Fire that government."

My question to you is, if there is a change at the federal level, how would that impact your projections for the next year or your budget this year? Secondly, I just want to bring forward that we have a lot of problems in the Hamilton-Niagara area, problems with steel and the auto industry. We have a lot of good workers, skilled workers, good access to the US. What do you see for our future in Niagara? Our workers really want to pay you some taxes.

Hon Mr Laughren: Pass on my thanks to your workers. I know they have to be working to do that. I appreciate that.

In terms of a change of the federal government, that's a hard one for me to answer because I really don't, at this point, know, although I find it hard to believe that any of the other challenging parties that would possibly be governing next year, aside from the Reform Party, would be as singleminded about monetary policy, the high dollar and the high interest rate as the present government.

I think it would be more stimulative. I don't want to be simplistic about it, but I would draw a parallel between the Republicans in the United States and the Conservatives in Canada. You saw with the election of the Democrats in the States at least a stronger sense of hope for recovery, probably more stimulation on the part of the federal government in the United States. Certainly, Clinton's been talking that way. The numbers I've seen him talk about haven't been that impressive if you take it down to Ontario or Canadian dollars, but at least he's expressing more stimulative thoughts than the previous administration in the States did. I think it would be stimulative, a change in the government at the federal level. I think that would help.

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On the Niagara Peninsula question, I was looking at the unemployment rates by regions in the province and I know your area is quite hard hit, and it's been raised in the Legislature by you and others on several occasions.

I hope the automobile industry is able to put more money into Ontario. Actually, they have made some major investments in the province, as you know, in the last couple of years. That's been very encouraging. We hope they continue to do it. We have some major advantages in Ontario for investment, particularly by the automobile industry. They will tell you directly themselves, for example, that since they very often have to pay the health care premiums for the workers in the US because of contracts they have with their employees, that costs over \$4,000 an employee in the States. In Canada it's around \$650 per employee to pay their health care premiums; in other words, the employer health tax here. That's an

enormous competitive advantage, and we need to keep saying that again and again.

Also, I believe that most of the automobile manufacturers would talk in pretty glowing terms about the skills of the Ontario workforce.

Thirdly, we do have an infrastructure here and a lifestyle that is, I think, considerably better than south of the border. They've got their own problems. I appreciate that, but I feel very strongly that we've got a place, in Ontario, to invest that's second to none.

They're having their problems. I looked at the General Motors announcement. There are major problems here, but look at the layoffs in the US that General Motors has announced as well. They're not simply picking on Ontario. They've got their own corporate problems.

The Chair: Minister, it's 3 o'clock and each of the caucuses has had 10 minutes.

Mr Conway: Surely you're not serious about that.

The Chair: Unless the Treasurer has any more time here to split up five minutes each, but I'm just following your directions at 3 o'clock.

Mr Phillips: I want to express my concern, because I think it was a year ago almost exactly that the Premier went on television and talked about opening the process up and making the numbers available. The material we've got so far from Treasury on the numbers is a fraction of what we got last year. The Treasurer shakes his head no, but we don't have revenue outlook by revenue point. We don't have any expenditure estimates that we had last year. There's far less information available to this committee.

We heard today that the staff was available only until 3 o'clock. I know we may change that, but I would hope the Treasurer would appreciate that for us to play our role, I think we should have more access to the Treasurer, more access to Treasury staff so we can get at some—we have a whole list of questions that we thought we would be discussing this afternoon.

Mr Sterling: I want to add to the concerns. Not only was I able to ask only two questions and didn't receive any kind of detailed response to either one, but I was not able to ask a whole series of other questions along with my counterpart. If in fact the Treasurer does want some advice, I think it's only fair that we be able to have some questions as to what in fact his figures do mean.

The Chair: As the Treasurer asked some questions of the committee, maybe we could answer those next time the Treasurer comes back. And maybe make the questions a little bit easier next time; then you would wind up being able to ask a whole bunch of short ones.

Mr Phillips: Why doesn't he write the questions?

Mr Conway: Do I take it this is the Treasurer's only appearance before this committee before the budget? I've got a great deal of respect for this Treasurer, but he knows that coming to this committee for 58 minutes and ending an interesting submission with three very useful questions and suggesting that he and his retinue must repair to other important executive business is something between farce and fraud. I've got too much respect for my friend from Nickel Belt to honestly

believe that as a very good parliamentarian, he honestly expects particularly my friends who ordinarily sit on this committee to treat this process seriously if he and his senior officials are not themselves prepared to make themselves available, to a legislative committee charged with advising on matters of finance and economic policy, for more than 58 minutes on a January afternoon.

Hon Mr Laughren: Mr Conway, I know that I could spend a great deal of time here and learn a great deal from what you would have to say, but—

Mr Conway: I want to talk about judges' salaries, for example. Do I get a chance to ask you that question?

Hon Mr Laughren: Let me finish my sentence. I was here last year for I think about the same period of time. There's been no attempt by Treasury not to provide you with all the information that we can. I think some of the questions have been put in a way that's been difficult for us to understand where you're coming from, but not because we don't want to share information. We're not in that business.

We are shortly going to be launching a major consultation, because I think it's our obligation to consult not just with members of the Legislature, with whom we spend a great deal of time for many months of the year, but with folks out there from across the province. So we're going to be spending most of our efforts in consulting with other people out there across the province, not just the people who sit in this chamber.

Mr Conway: Darcy McKeough and Larry Grossman couldn't have said it more contemptuously.

Hon Mr Laughren: I don't think that's contemptuous.

Mr Conway: Surely this committee and this Legislature count for something.

Hon Mr Laughren: That's why I'm here.

The Chair: Mr Conway—

Mr Conway: I have some questions and I want to know—

The Chair: Yes, but it's gone past 3 o'clock. The Treasurer said he will come back.

Mr Conway: I'm asking him to stay.

The Chair: This is the second day of hearings.

Mr Conway: I want to ask this man some questions about issues that concern my constituents. I'll come back if he'll come back.

The Chair: I guarantee you that he'll be coming back.

Hon Mr Laughren: Mr Chairman, we made an arrangement, both in my schedule and others' schedules, to be here from 2 to 3. If that was not acceptable to the committee I wish you had said so. I thought that was agreeable to the committee and that's why we're here from 2 to 3.

The Chair: I knew you would be here for only one hour but I didn't know if the staff did. That's why I asked the question at the very beginning, because it wasn't clear on the document.

Hon Mr Laughren: But the committee can't make an agreement one minute and say, "Yes, come for an hour," and then say, "No, no, we don't want you for an hour; we wanted you for all day."

The Chair: I would say you've been here longer than 58 minutes. I'd like to thank you for appearing before this committee, Treasurer. Some of the questions of Mr Phillips and Mr Sterling your ministry will get back to, and we'll see you back at this committee in a couple of weeks.

Mr Phillips: Mr Chairman, you told me that the staff was staying beyond 3 o'clock today.

The Chair: Treasurer, can any of the staff stay?

Mr Conway: I'm sure they can't; they're busy people.

Hon Mr Laughren: They are.

Mr Conway: I know they are. This committee is something more than a joke too.

Hon Mr Laughren: But they will come back.

Mr Carr: Mr Chairman, may I make one suggestion? I know the Treasurer wants to be helpful. We wasted a little bit of time arguing there.

The Chair: That was after 3 o'clock.

Mr Carr: Maybe if we had one more quick question each so I could get one question. I promise I'll keep it under 30 seconds. Would it be possible, since the staff isn't staying, that each of us get one more quick one if we promise to make it short? Can that happen?

Mr Ward: Just a point of order, Mr Chair: We had a designated time. It seems to me that the minister has other scheduled appointments to attend to, as well as his staff. But I think we should be able to work in another appearance by the Treasurer, if not his staff as well, at a later date.

The Chair: All right. Following the direction and being the Chair, I say no more questions.

Mr Phillips: Didn't the original schedule show the staff here longer?

The Chair: That's why I just asked the question.

Mr Phillips: The schedule I was given—this is the first time I'd seen that schedule.

Mr Carr: Since we're into this now, my office was called, asking if it would be acceptable for the Treasurer to come for an hour but for the staff to also leave with the Treasurer. My reply to them was: "Thank you very much. The Treasurer is very busy but I would like the staff to stay."

Just so it's clear, I was under the impression, having been phoned in my office, because they then phoned me and said, "What about the staff?"—I think the Treasury department will confirm this—and my office said: "No, we would like to have the staff there. We don't get much chance to deal with them." So I came with the understanding that there would be at least another hour with the staff. That's why I thought that if there's a bit of compromise, if they can't stay and if the Treasurer would be willing, out of the goodness of his heart, because I know he's trying hard, to answer maybe one more question for each, we could do it. I want to tell you, my understanding was that the staff was going to be here for an extra hour. Anyway, that's for the record, so people know what happened.

Mr Phillips: I did exactly the same thing. The schedule that was handed out yesterday, Treasurer, as you know, has Ministry of Treasury and Economics officials from 3 o'clock on. I told people I would be late tonight.

Hon Mr Laughren: I wasn't aware of that. We'll make sure they come back.

The Chair: Mr Phillips, I was just talking to the clerk here. There was a little line at the bottom, "subject to change," and she did change it.

Clerk of the Committee: We handed it out Monday morning.

The Chair: So yesterday morning it was handed out.

Clerk of the Committee: The new one.

The Chair: The new one. Thanks, Minister, for appearing before the committee. We'll welcome you back again next time and we'll get shorter questions for you.

Hon Mr Laughren: Okay, thank you, Mr Chair.

The Chair: This committee's adjourned until tomorrow at 10 am.

The committee adjourned at 1511.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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Ward, Margery (Don Mills ND)

Wiseman, Jim (Durham West/-Ouest ND)

***In attendance / présents**

Substitutions present / Membres remplaçants présents:

Conway, Sean G. (Renfrew North/-Nord L) for Mrs Caplan

Coppen, Shirley, (Niagara South/-Sud ND) for Mr Sutherland

Harrington, Margaret H. (Niagara Falls ND) for Mr Wiseman

Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Mr Christopherson

Mammoliti, George (Yorkview ND) for Mr Jamison

Swarbrick, Anne (Scarborough West/-Ouest ND) for Ms Ward

Also taking part / Autres participants et participantes:

Kaufman, Jay, Secretary of the Treasury Board

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Campbell, Elaine, research officer, Legislative Research Service



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ISSN 1180-4386

**Legislative Assembly
of Ontario**

Second Intersession, 35th Parliament

**Assemblée législative
de l'Ontario**

Deuxième intersession, 35^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 13 January 1993

**Journal
des débats
(Hansard)**

Mercredi 13 janvier 1993

**Standing committee on
finance and economic affairs**

Pre-budget consultations

**Comité permanent des finances
et des affaires économiques**

Consultations prébudgétaires



Chair: Ron Hansen
Clerk: Tonia Grannum

Président : Ron Hansen
Greffière : Tonia Grannum



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Wednesday 13 January 1993

The committee met at 1006 in committee room 1.

PRE-BUDGET CONSULTATIONS

The Chair (Mr Ron Hansen): It being 10 o'clock, the standing committee on finance and economic affairs will resume the pre-budget consultations.

ONTARIO TEACHERS' FEDERATION AND AFFILIATE GROUPS

The Chair: I'd like to welcome the Ontario Teachers' Federation and affiliate groups. We have one hour between 10 and 11. Can you leave some time for questions near the end for all three parties? If you don't mind, identify yourselves and your positions for the purposes of Hansard. You may begin.

Ms Ruth Baumann: I am Ruth Baumann of the staff of the Ontario Teachers' Federation.

Mr Gene Lewis: I am Gene Lewis, president, Ontario Public School Teachers' Federation.

Mr Horst Schweinbenz: I am Horst Schweinbenz, president of the Ontario Teachers' Federation.

Ms Helen Biales: I am Helen Biales, president of the Ontario English Catholic Teachers' Association.

Ms Margaret Dempsey: I am Margaret Dempsey, president of the Federation of Women Teachers' Associations of Ontario.

Ms Margaret Wilson: I am Margaret Wilson, secretary-treasurer, OTF.

The Chair: Okay, I'm going to be a good Chairman. I'm going to allow you to start off and designate who is next. You don't have to go through the Chair for each presenter.

Mr Schweinbenz: Thank you. I will be presenting at the beginning and we will all share in the presentation.

The Ontario Teachers' Federation is pleased to have this opportunity to present its views and concerns to the government during this pre-budget consultation. The federation represents 130,000 teachers, both elementary and secondary, public and separate, in the publicly funded schools of Ontario. We see ourselves as part of the broader public sector attempting to work in partnership with the government to provide Ontario's children and adult learners with the best possible education, particularly in these times of economic difficulty.

During the time available, we'd like to address several issues: the impact of the current government economic restraints on the education system, the central role of education in Ontario's economic future, the responsibilities and options for change in provincial government support for education, and the necessary conditions for effective partnerships to provide quality education programs for all Ontarians in difficult economic times, with an eye to our collective future.

The impact of the transfer payments in the last two rounds cannot be minimized. We have a chart attached in appendix A of this submission that shows the impact that occurred with the 1% increase in transfer payments late in 1992. The summary also talks about how this impact has gone on to salary settlements, the numbers of positions eliminated and the areas of program and operations that were affected by the budget restraints and staff cuts.

Appendix B is a document entitled "Ontario Teacher/School Board Settlement Rates, Pre and Post 1992 Announcement of 1992-93 Transfer Payments," which will give you a clear indication that the education sector is responding quite rapidly to the changes that have taken place with regard to transfer payments. I would ask Gene Lewis to go through some of those changes, particularly in salary settlements.

Mr Lewis: I think it's safe to say that it's been a bit of a rocky ride for education in the last 12 months as school boards have scrambled to restructure. Unfortunately, under the banner of fiscal accountability, many boards have abandoned programs and services which were once the mainstay of North America's finest education system. Programs that have historically been associated with a child's education in this province have been decimated.

Collective bargaining, in many instances, was labelled as the culprit, but in reality it's been through the collective bargaining process that a number of programs and services for children have been salvaged. It's irresponsible, in my opinion, to suggest that the teachers' collective bargaining process has contributed to the current recession, although in the media, particularly, there's been an attempt to draw that conclusion.

I'd like to refer you to the document, on page 2—the title is "Salary Settlements"—and just briefly take you through it. Excuse me; the version you have begins at the bottom of page 1. The first paragraph that begins with, "During the weeks following the January 21," outlines the fallout from the Premier's January 21 announcement of funding cutbacks, and they've been significant. In the second to last line you see the term "a bitter pill," and indeed that's what it has been for many of our collective bargaining units across the province and for many of our parents and students across the province.

The second paragraph outlines the impact of the Premier's announcement on salary settlements, and I think you'll see that they're not dissimilar from the kinds of agreements that were reached in other sectors.

The last two paragraphs demonstrate that collective bargaining is indeed responsive to the economic climate of the province. One of the greatest criticisms that was put forth was that teacher bargaining demands were unrealistic. The reality is, of course, that teacher bargaining, like much of the bargaining in all sectors, has been responsive to the economic climate of the times, and the current settlements that are being reached demonstrate that fact.

One of the biggest concerns, of course, with school boards at this point is that when the 2% promise was made, school boards developed their budgets on that commitment from the provincial government, and the fact that the government has reneged on that is creating a great deal of instability in the education system.

One of our current concerns is the manner in which the \$99 million will be allocated. I believe it's safe to say that the ill-fated transition assistance fund from last year should not be used as an example of how to disburse this \$99 million. The federations have put forward some suggestions to the minister and we hope the minister has been listening. Horst perhaps will comment on that further later on.

To go back purely to collective bargaining, bargaining with fewer resources is difficult at the very best and it's vitally important that the parties to the bargaining process be left alone to resolve their differences themselves. It's important that the government make it absolutely clear it will not become involved in the collective bargaining process. For the government to become involved would create a triangulation of process that will only aggravate circumstances that are currently not the best.

The involvement of the government in a change of the ground rules, such as a redefinition of "full-time equivalency" or the number of years of schooling that our students must participate in, would only make a difficult situation a disaster.

In summary, I guess I'm saying that both boards and teachers do not need another series of hoops to jump through. We are quite capable of resolving, through the collective bargaining process, the challenges that confront us and we recognize that these will be difficult times.

Mr Schweinbenz: In regard to other things that have happened in the last year, collective bargaining has been affected, as Gene has said, but we've actually had individuals and programs affected, and I'd ask Margaret Dempsey to continue on that.

Ms Dempsey: With children and youth and their education being the focus for Ontario's teachers, we wish to paint a picture today of the seriousness of the landscape out there for the children in terms of staff and program cuts, because we must always keep in mind the human face of the children who are right here within our schools as we speak, and the fact that without the resources for the classroom teacher to benefit the learning and learning styles of those children, we are negating the fact for childhood and youth that I believe we all want as citizens of Ontario.

As referred to in appendix A, it will list a total of 2,427.8 positions eliminated in Ontario schools between the 1991 and 1993 school years. This is a number that we as teachers in Ontario believe is high relative to other, broader public sector employees.

But let's look at the real landscape too beyond the people and look at the program cuts. The cuts are in the junior kindergarten, family studies, technological studies and special education areas. A number of school boards have delayed the implementation of new junior kindergarten programs or have had to cut existing programs because they are not yet mandatory.

Then, taking it down to the school and the classroom level, professional development budgets have been cut. Support staff working hours, supplies, furniture and equipment, all of this has been affected and all of this will directly impact on the children. In many boards, class sizes have increased, and I've particularly noted that at the elementary school level in my travels.

Of our professional staff in many boards who are the coordinators and curriculum consultants, who help us to implement programs with children and who help us to look at the special-needs children so that we are making a program suit their particular needs, many of these professionals have been cut or redeployed back to classrooms.

In terms of maintenance and renovations in many boards, there have been cuts there as well.

All the actions that I've described in this landscape, taken to achieve budget estimates, are actions which I believe can be taken once only. A curriculum department in a school board cannot be eliminated twice, and the savings achieved by reduced maintenance and repairs may produce additional costs later on for that particular school system.

I believe that in this era, when we're all under public scrutiny for providing the very best quality education we possibly can for our children and youth, we have to look at the short term and the long term.

In the words of Michael Fullan writing about educational change, he says that change is resource-hungry. We as teachers know that we are living through one of the most significant change periods within educational history in Ontario in terms of program reform, and I speak in terms of the development of new curricula and the program for the transition years. Resources that have accompanied major changes in the past no longer exist. Let me give you some examples.

Over the past four and a half years, the curriculum policy section of the Ministry of Education has been devastated. In 1988, for example, the combined complements of the centre for early childhood and elementary education totalled 53, including two directors and 43 education officers. In the spring of 1992, the curriculum policy development branch of the ministry had one director and 21 education officers for the entire JK-OAC graduation continuum.

A second example which shows you the marked change: In 1988 the central Ontario regional office of the ministry had 48 staff listed in the government directory, including 28 education officers, but as of February 1, 1993, that office will have 14.5 English and 1 French education officers to serve the schools from Waterloo to Hastings and from the Niagara border to the north end of Simcoe county.

This concern that we as teachers raise with you today about the level of professional support which the ministry offers to school boards and to us as teachers is of grave concern to us. At the same time, we have school boards supporting change with local resources and the capacity then of the ministry to provide the leadership, and that support is very quickly disappearing. We as teachers in the schools are faced with significant changes to educational programming and delivery, and we need that linkage of support from the ministry as well as supports within our school systems for the children we teach.

1020

Mr Schweinbenz: What is the future role of education in Ontario? I would ask Helen to expand on that.

Ms Biales: Continuing on with the concerns expressed by my colleague Margaret here about the children in our society in general, I'd like to make it abundantly clear that if Ontarians are to maintain their standard of living collectively and individually, the nature of our economy has to change significantly.

The high-wage, semi-skilled manufacturing jobs which drove Ontario's economy for decades are fast disappearing. Our children and the students in the schools, if they are to maintain the quality of life most Ontarians have enjoyed so far, must be skilled and knowledgeable, adaptable, mobile and ready to continue learning throughout their adult lives, and we as a school system definitely support lifelong learning. The high value added jobs that will produce the high wages require more children and adults to become more successful at learning than we have expected in the past.

I think we're all familiar with the recent report of the Conference Board of Canada, *Dropping Out: The Cost to Canada*, and some of the observations are found on page 4. Let me go over them briefly. The first observation made by the report is that:

"Canada will lose more than \$4 billion in present-value terms over the working lifetimes of the nearly 137,000 youths who dropped out of secondary school instead of graduating with the class of 1989.

"Each individual male dropout will lose nearly \$129,000 in today's dollars over his working lifetime, while the female dropout forfeits \$107,000.

"As an investment vehicle, education has a higher rate of return than almost any alternative investment project. The rate of return to society of investing in secondary school education is 19% for males and 17.8% for females.

"Canada could save \$26 billion if the dropout rate were reduced from 34% to 10% by the year 2000."

We as a federation may argue with some of the Conference Board figures regarding the current dropout rates and how it arrived at those figures, but the arguments it put forward are sound and the questions it raised are very provocative and something we should consider.

I think the point that has to be emphasized in this pre-budget process is this: As an investment vehicle, education has a higher rate of return than almost any alternative investment project. I think if the schools can find ways to enable greater numbers of students to achieve greater success, if we can entice the dropouts back and increase the number of young children who read successfully, we will achieve significant economic and social benefits for society as well as for individuals. Of course these changes cannot be made in a resource vacuum.

I would like to quote what the Premier was quoted as saying in the paper yesterday. I think this is very appropriate and I hope the government will follow through on this. The quote is, "I want you all to know this is one Premier who very much wants to fight on behalf of the people of this province." The children we teach are the people of this province.

Mr Schweinbenz: What role does the provincial government have in this entire process? I would ask Gene to continue.

Mr Lewis: I'm referring to the section at the bottom of page 4. I think it's safe to say that Ontario's education system has been highly regarded around the world, let alone North America. We've been the envy of many communities, and as teachers and as parents we appreciate that and we yearn for that to continue.

One of the strengths of our system has been its consistency and its dependability. Our system has been perceived as one in which parents can find services and programs for their children year after year and the system is perceived as dependable. Parents can depend on it; educators can depend on it. That's been a major strength.

Yesterday I was talking to a director of education in this province about the current process of reform that's taking place and he provided a little analogy which I found interesting. He said, as a director, it feels like he has been asked to build a house and he's supposed to start with it tomorrow but he'll be given the plans a couple of weeks from now. That's the situation educators find themselves in.

We need leadership from the provincial government. It's fine to decentralize, and within reason decentralization accommodates the needs of local communities, but taken to the extreme it simply leads to chaos in the system.

The parents of Ontario must be able to depend on the education their children are receiving. I think the leadership coming from the provincial government, first of all, has to be available, then it has to be rational and it has to be coherent. The role of this government is extremely important in ensuring that the quality of the education system in this province is maintained.

Mr Schweinbenz: The resources and priorities that the government places on its own spending are important to us. The chart on page 6 will illustrate how we see the government has placed its priorities for spending. We see a ministry that's moving away from educational resource to school boards to more of administrative and technical. If you take a look at the growth in the administrative line on table I on page 6 over the five years from 1988 to 1992, the administration section has gone up considerably. When you look at the learning programs you will see that the numbers there have declined significantly.

The resources that the government puts, are they displacing jobs in the school boards or are they adding to more jobs in the school boards? In the past six years, there's also been a move to a generic nature of people working within the ministry—not professional educators but just people who can work in the ministry. In those six years, the previous government and this government have initiated major restructuring initiatives within the educational system, curriculum change that deals with all aspects: teacher education, junior kindergarten, the transition years, the formative years, OAC, technology, and all of these at the time when the government is moving away from professional educators in their department to more generic people. We wonder why.

The purpose of this budget and the pre-budget process is to examine not only how to fund but what to fund. True priorities of this government are revealed in the details of its

budget and its operation. We ask that you come back to looking at the curriculum and some of those areas that we really need for the schools and away from the administrative presently being handled by the school boards themselves.

I will ask Ruth Baumann to sort of walk you through the chart or table I and she can explain the numbers.

Ms Baumann: Let me explain first that the data on table I, with the exception of some data I will be giving you so you can fill in the missing information, comes from what I would describe as a pretty simple methodology. We simply took six years of Ministry of Government Services telephone directories and counted bodies. We tried to make sure we didn't count anyone twice. Where there was a clear vacancy, we did not count that as somebody being there. There were places where you had a phone number and it was clear there was a position waiting to be filled. There were enough of those scattered all over that we figured in the end they probably cancelled each other out.

We bring to your attention what has happened in the major areas of Ministry of Education activity, because we think it tells a tale that people may not have noticed. Their corporate policy and planning division has grown over the last four years. It was first begun in 1987. The administration division has grown enormously.

There are two things, one in each of those ministries, that we were able to identify as a one-time move, and they've been noted in the notes that are attached to the chart. There were branches that moved from one division to another division, and that's a justifiable increase when one deals in those numbers.

We did not, in either of those cases, try to get into a detailed analysis of who was there. We did note that the largest single area of growth in the administration division was in the school board information technology services, which is the provision by the ministry to a number of school boards, we understand, of computer programs and support for that, but that wasn't an area of enormous growth at a time when other departments of the ministry were, at best, holding their own or being cut.

1030

We've not done totals on the learning programs division because in fact there are a number of activities contained within that division and we wanted to focus on those that support the kind of program policy change that we're in the midst of right now. If you look at the three lines that are listed under "Learning Programs," you will see a steady erosion in what we've termed curriculum policy development—it's what was in 1988 the curriculum branch of the ministry—in terms of the number of staff available.

In conversation on the telephone yesterday with people from that department, it is my understanding that since June 1992, when the last column was in the directory that we had, the curriculum policy development branch and the Centre for Curriculum Resources Technologies have been merged. While I don't have total figures, the number of education officers left in the combined branch is down to 18. Those are professional educators with experience in the field.

Whereas in June you had the directory listing 21 education officers in curriculum policy development and, I believe, at least 10 of the people in the Centre for Curriculum Resources

Technologies, that's now down to a total of 18, 13 of whom were in curriculum policy development and five who are dealing with the computers in education aspect, the actual development of computer curricula and software for teachers to use.

The other area I would draw your attention to is the learning services division, which is the regional offices of the ministry. These are the offices of the ministry that provide direct and ongoing support to school boards. I would like to, first of all, say that the number of footnotes that deal with those offices, we believe, reflect a move away from permanent staff and towards short-term secondments.

It's difficult to ascertain from the directory, but in conversations with people in those offices, it would appear that over the period from 1988 to 1992 and the present, there has been a growth in the number of people brought into the ministry for very short periods of time to do specific tasks and a decrease in the number of persons employed on a permanent basis.

That's not always a bad thing. Unfortunately, with the kinds of budget restraints that are occurring right now, what is happening in a number of offices, and the central Ontario regional office would be a good example of this, is that all of those secondments simply get cut. Where the permanent complement may not be cut, secondments are, so that you end up with disproportionate hits in the cutting back.

As of September 1992—and again I don't have total figures here; I have education officer figures, which would correspond to the second number under "1992"—the central Ontario regional office was down to 16.5 permanent education officers, eastern was down to 14, midnorthern was down to 13, northeastern was down to 14, northwestern was down to 10 and western was down to 16.

We believe in fact that we've demonstrated to you today that the level of support at the policy level—how to do things, what to do, advice to school boards—has been eroding steadily and has taken a really sharp plummet downward within the last year, at the very time when we're being asked, as teachers and school boards, to make significant changes.

Mr Schweinbenz: Do you want to go to the question, or would you like me to continue?

The Chair: He's got his hand up for as soon as you're done.

Mr Schweinbenz: The other thing that has happened in the last few years is the shift into the schools of services from other agencies that are now being delivered through the school system.

Table II, on page 9, talks about transfers to Education, Community and Social Services and Health. However, it doesn't necessarily indicate those areas which now overlap and which are being delivered by the schools. There are many discussions about disentanglement. One of the things we find of great concern is that we believe the students in our schools need these services, but they should not necessarily all be paid for out of the education budget. There should be some way of paying for the services that are being delivered by the schools in combination from the other budget areas that formerly paid for them.

I would ask Ruth to take you through table II.

Ms Baumann: There are two comments I'd make. I apologize: There are some things we did not catch in our proofreading. We were revising these about 20 minutes before we left this morning.

The education transfer to school boards is the general legislative grants only; it does not include capital. The figures are all in millions of dollars for all three ministries. We'd simply draw to your attention that the rate of increase of transfers to school boards versus the increases in Health and Community and Social Services has been much slower.

The observation we would like to make today is that as the restraint and the current fiscal difficulties have hit all of government, locally and provincially, as ministries and delivery agencies have withdrawn services, schools, as the universal hub in the community, have found it very difficult to withdraw services and in many cases end up picking up the delivery of services that used to be available elsewhere. Or in some cases—and I would use specifically some health services, including speech and language services and provision of support for physically handicapped children in schools, including things like catheterization—there are services to students which were intended by all ministries to be funded by Health, which at the local level, depending on the ability of hospitals and local health units to provide those, in many cases are not occurring and school boards are left having to provide those services regardless, because the kids are there.

It's one of the things that we believe has contributed to the emergence of education as the primary claim on the property tax. The rate of increase of transfers to municipalities for social assistance and general welfare has been at a much higher rate than the rate of increase of transfers for education, so the amount that's left to be picked up on the local property tax has increasingly shifted from general municipal services to education.

When we get into our closing section on the financing of education and education and taxation policy, we think that disparity, the disparity in the treatment of Community and Social Services, Health and Education over the last five years—and I think it's important to emphasize that this is not something that has suddenly happened; it's a pattern that's been there—is one of the things that is bringing us the crisis we see right now with property tax and education.

Mr Schweinbenz: I would ask Helen to continue with the financing of education and taxation policy.

1040

Ms Biales: Many of our concerns come from the government mandating services that schools should provide. We don't disagree with the mandated services, but we are quite perturbed that full funding is not provided for these services. We can't continue to add on and not provide the funding. There's also an increase in the fixed costs such as utilities, hydro being one example. That has to be taken into account.

As mentioned by Ruth, there are services that are crucial to our students that don't appear in the curriculum but must be provided for these students. She mentioned speech services, catheterization, these kinds of things, and we need to continue to provide them.

As previously stated, the financing of education relative to health and social services has resulted in services being

financed directly from the local property tax, because education has to pick up this cost. If we're not getting any more money from the government, where's it going to come from? The local taxpayer.

The payments to municipalities for welfare and other social assistance have escalated, but the transfers to school boards have not. This is why this particular thing occurs, where you have the taxpayer having to pay more. In fact, the education increase in property tax we figure has come up to approximately 55%.

The decision of this government to undertake a comprehensive examination of the tax system in this province and to include the community in that examination we felt showed real leadership. The results are back now, and the Treasurer needs to show continued leadership in this aspect.

The property tax working group of the Fair Tax Commission identified education as one of a group of government services that should be financed on the basis of ability to pay. This can be achieved in part by moving some education expenditure away from the local property tax and back to provincial revenues.

Rethinking our present system of equalization provides the opportunity to create greater equity. I think that's something the government does espouse all the time, that equity is very important. The education community has known for at least a decade of the disparity between school boards in their ability to raise revenue locally. The part that was not known until recently is how flawed the assessment is as the basis on which to calculate equalization payments for education.

Table III in appendix C, from the property tax work group report, indicates how much a number of community assessment practices vary from the assumptions built into the present education finance system. The serious differences in the way commercial and industrial assessment is handled relative to residential assessment between communities have effects which are greater than all the equalization payments in education.

We know the assessment system itself cannot be fixed quickly. It would create utter chaos if we tried to do that. Some of the effects of a flawed system can be mitigated, though, if it is no longer used as the foundation for equalization among and between communities. An equalization system reflective of a community's ability to pay would be a significant step towards increased fairness and it would be much fairer to those school boards we classify as poor school boards, which happen to be the bulk of the school boards in this province.

Mr Schweinbenz: We apologize. Appendix C apparently has been left off, but if you have any questions on it, we have one of the co-chairpersons of the property tax group with us in Margaret Wilson, and we will get you appendix C later this morning.

In conclusion, we can face this challenge together. I would ask Margaret Dempsey to continue.

Ms Dempsey: As the Ontario Teachers' Federation, we ask you today to consider four key points: that the ultimate test of success of any government is not whether it has good ideas but whether it can make those ideas work; that priorities and commitments are ultimately identified by the human and

the financial resources allocated and not strictly by words; that successful change requires detailed attention to transitions, whether the change is in the area of taxation policy or in education reform. Education, we believe very strongly, is the key to our collective future as a province, and real educational reform requires working and workable partnerships between stakeholders and government and sufficient resources to make real change.

Mr Schweinbenz: Teachers are not asking for money so that we can get more salaries. We're asking that you consider in your priorities that the programs you're asking the school boards to implement can be financed so they can be implemented successfully.

As a member of the Canadian Teachers' Federation, I have one last chart to give you. It compares Ontario's spending on education and health and social services with all the other provinces. You will notice that the largest decrease in education is in Ontario. We ask that in your deliberations you look at restoring education to the funding levels it had in comparison to health and social services for the benefit of students in the schools. Thank you very much.

The Chair: Thank you. We'll start with Monte Kwinter.

Mr Monte Kwinter (Wilson Heights): I'm going to direct this question to the panel in general, not to anyone specifically, and you can decide who wants to answer it.

One of my concerns is that there's a feeling I get from my constituents, feelings I hear about, that there's a general dissatisfaction with the level of education we are providing to our students. The Economist of London—I'm sure you're familiar with this publication—had a major report on education in the world and came to the conclusion that Canada—I'm not saying specifically Ontario, but certainly Ontario included—allocates one of the largest per capita proportions of any country in the world to education, yet the level of education is considered relatively poor.

I bring to your attention a photograph in the papers this morning, both in the Globe and the Star, of parents in Scarborough lining up overnight to get students into R.H. King Academy. The headline is that they're there to get their children a better education, because they're unhappy with the education that is being provided to them in the regular programs.

I have a vested interest; I'm very familiar with it because my wife happens to teach at R.H. King. That's why I happen to be aware of it: I saw the article, and it wasn't just a passing thing, because I noticed it.

How do you reconcile the fact that we devote that substantial proportion of our provincial budget to education, yet the results that are coming out don't seem to meet the expectations of the population?

Mr Schweinbenz: Perhaps I could start before anyone else jumps in. We believe education in Ontario is good. We believe we're delivering a very good product to the students. But I also think there are some expectations of teachers and of the school system that are not found elsewhere. In Metropolitan Toronto, there are 54 different nationality groups, and the 54 groups bring ethnic and cultural differences to the classroom. Teachers have to cope with that and at the same time deliver a balanced program. If you get into an elitist

situation, perhaps in one of the schools you've mentioned, that's one of the things they can perhaps iron out, because only the rich can afford to go there.

The other thing being required of teachers and of the school system is not just to deliver basic education but also to deliver values, to deliver some of the programs that are being asked of us on a constant basis, and it comes from all different points of view. We have people asking us to look at not only education but the social and welfare aspects of children and the surroundings they're in.

When you look at international tests, they talk about averages. Well, our top students will compete with the top students anywhere in this world, and I would put any of them to task in any country to say that their top students are better than our top students, because I think our top students are the top.

Would anyone else like to add to that?

Ms Wilson: I want to start by saying that I think all of us believe we can also do better in terms of our students. If you take an article such as The Economist's, one of the things it does not do is make comparisons based on the jurisdictional modes of various countries. One of the things we have to expect in Canada is that a substantial amount of the spending on education will be spent on governing education, because we don't have a unitary mode of government for education, so each province will have its own ministry. It would be fair to say that in Canada increasing amounts have been spent in every province over the last 10 years in local governance of education to meet what are priorities or constitutional rights, whether you're talking about French language rights or the rights of Catholic parents to govern their own schools.

1050

I have never seen an adequate sort-out of the jurisdictional costs as opposed to the classroom costs. It would be an interesting exercise, because I think we might be surprised at the proportion of the education spending that actually went on what you might call governance and administration as opposed to the classroom. I know that in Ontario, if you go back to some of the comments that were made about health and social services, we have a number of boards that have more non-teachers than teachers on their staffs, large boards. If you look at what the non-teachers do, to a huge degree they're delivering health and social services, or assisting with health and social issues, as opposed to the delivery of the classroom curriculum.

We as teachers think that one of the things that has to be examined is where the priorities are. The other problem we have is finding a real consensus on what the schools should be doing. There is no question but that the activities of the classroom teacher have increasingly been taken up with health and social issues over the last 10 years. If we want to get back to—I won't say back to basics; I don't think that's what Monte's driving at either—the curriculum questions and to increasing the performance of all of our students, knowing that the best students on any international tests really do very well—the big American math competition won't let Canadians in any more; we've won too often. Seriously. Last year they decided no more Canadian entrants. If we want to get back to improving performance of all the students, we have to

decide where the resources will go. I invite you to go back again to those charts and what's happened to the Ministry of Education in terms of where its money goes; to what's happened to ministry regional offices in terms of where they're putting staffing money; and to what's happening in school boards in terms of where they're able to put staffing money if we have to subsidize, which is what we're doing, Comsoc and Health.

Let's have a real discussion about education spending and education priorities. Let's staff the system so that if we want radical overhaul—and the previous government had ambitions similar to this government in terms of curriculum change—we've got the resources to make curriculum change and are not just wandering around in the dark, school by school, which seems to be the present invitation.

The Chair: I've got to go on to Mr Sterling.

Mr Kwinter: Mr Chairman, could I just correct a statement Horst made, just for the record? R.H. King is a high school in the Scarborough system; it's not an elitist kind of thing where people who can afford—anyone can go to R.H. King on a first-come, first-served basis, but it is a regular high school in the sense that it is funded the same way as every other high school and the students who go there go there on the same basis. It's limited enrolment because they only have so much capacity and it's on a first-come, first-served basis, and that's why people were lining up to get in.

Mr Schweinbenz: I apologize.

Mr Norman W. Sterling (Carleton): Yesterday and the day before, we had several economists in front of us. They said this recession was different, and one of the reasons it's going to be difficult to get out of—and that was confirmed in terms of employment figures as predicted by our Treasurer yesterday—was that during this recession there has been an income distribution problem. Those who are doing well have done well during the recession; those who have not been doing well are not going to be hired next year, because those who are doing well have taken a bigger bite of the pie than perhaps they should have. Some might argue that the teaching profession, which is very strong in this province, has taken too big a bite during the recessionary period. Would you care to comment on that?

Ms Baumann: Mr Sterling, I would direct your attention to the material in appendix B. I think it's important that one first of all recognize, and we would argue, that collective bargaining is a process that has worked well for education in general in Ontario over the last 17 years, since legislation was first introduced.

The brutal fact is that as we get to a recession, school boards, like government, feel the effects of the recession later than the community at large. We feel it when tax revenues are down, for instance. Indeed, what we had happening in school boards with collective bargaining was that salary settlements were running in the 5% range prior to the Treasurer's January 1992 announcement about the transfer payments. That's not surprising when the transfer payments the year before had been increased by almost 8%. I think that's the kind of pattern one would normally expect.

It was when the sudden damper came that—if you look at the average figures, they look high, but they look high be-

cause a number of those agreements were settled long before the 1%, 2% and 2% announcement was made. When you actually, as we asked the Education Relations Commission to do, break out the settlements that were made before and after that January announcement, you discover that very quickly those settlements began to fall and that the notable exceptions, those still in the 3% or 3.5% range, are ones where traditional comparators, neighbouring boards and other groups of teachers within the same board, had settled before January.

The experience of teacher bargainers both in the 1970s and in the early 1980s, when the Progressive Conservative government imposed wage restraints, has been that bargaining has come into line, that it takes longer for all of the system to come into line, so that on the recovery end we're slower coming out. I think you'll find that's supported if we look back either at the mid-1970s or at the early 1980s. So we're slower getting into it and we're slower getting out of it, but the adjustment occurs none the less, and I think is a reasonable adjustment.

Mr Sterling: I'd just like to say, having come through a fairly bitter strike in the area I represent, that none of my constituents supported the teachers with regard to the Carleton Board of Education strike. Unfortunately, the teaching profession lost unbelievable amounts of credibility in terms of the strike action. I did not receive one call from one non-teacher supporting the teachers, and I received hundreds of calls on the other side. They thought the teachers, quite frankly, were being greedy at a time when lots of people in my area were losing jobs. I just put that to you.

The Chair: Mr Carr, you have two minutes.

Mr Gary Carr (Oakville South): Along the same lines, yesterday the NDP members talked about transfer payments from the federal government and the Treasurer came in yesterday and complained about the federal government. I want to put you in the position of my board. They will next year receive 0% from this government. I look down the list, and already negotiated is a 2% increase of teachers' salaries. You don't need to be very good to realize that property taxes are going to go up because of that.

Would you care to comment on that and tell the taxpayers in Halton how, when the provincial government has limited transfers at the same time they're complaining about the federal government, my board will get zip, zero? They've already negotiated 2%, and I think probably 80% of the board's expenditure is salaries. What do you say to the property taxpayers in Halton who are going to get big property tax increases because of two groups of people: one, the provincial government, and, two, the salaries of teachers?

Mr Schweinbenz: Could I just say we don't believe it's all going to be the salaries of teachers? If you take a look at the Halton board and the percentage of the board budget that is teachers'—

Mr Carr: Which would be what?

Mr Schweinbenz: It would probably be in the 50% to 55% range of the total budget.

Mr Gerry Phillips (Scarborough-Agincourt): My experience was always that the teachers are about two thirds, but that's 10 years ago.

Ms Dempsey: Not any more.

Mr Phillips: Those are the good old days?

Mr Carr: Regardless of what it is, it's a big enough share that when you get 2% of 50%, 60%, 70%, 80%, whatever it is—let's say it's 50%. If you get 2% of 50% of your costs going up when you're getting zero from the provincial government, which makes up a big bulk of the transfers, mathematically the numbers will change. The fact is that property taxpayers in Halton will get an increase. What do you say to them?

Mr Schweinbenz: What do you want me to say to them other than that the contracts were signed with a clear understanding, and the clear understanding was that the transfer payments—at least, that's what we felt—

Mr Carr: Yes, but the board did that thinking they were going to get 2%, based on what the Premier said, so the fault isn't really even the teachers'. It's the provincial government's, wouldn't you say?

Mr Schweinbenz: We believe the change in the percentage back to the boards has caused considerable problems and will cause tax increases, yes. We believe that's part of the provincial government's—

The Chair: Mr Carr, I don't want to cut you off. I know you've got some really good questions. I've got to go to Mr Johnson, as the next group is here to go on at 11.

1100

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Thank you for your presentation, a very lengthy presentation, and a good one, but unfortunately we don't have a lot of time to ask questions, so I'll get right to it.

You would agree, I guess, that there's a great diversity among school boards, depending on whether the school board happens to be an urban centre or a rural centre, and the percentage of teachers' salaries certainly varies from school board to school board; what school boards may be involved in with regard to extra-curricular activities varies from school board to school board. So it's very difficult to sit here and talk about school boards in general, because of that diversity. In some of the rural school boards we know that teachers' salaries can take up as much as 75% to 80% of the school board's total budget.

Mr Schweinbenz: We don't believe they're that high anywhere in the province. If you look at even the rural school boards, the old percentages, where people used to say 75% of the budget was teachers' salaries, are just not true any more.

Mr Johnson: I don't want to belabour that. I know we all want to be as efficient as we can and do as much as we can with as little as we get. I know that when it comes to negotiations, the teachers will be very prudent. They understand that, given the very difficult times we're in, they will negotiate accordingly.

It doesn't matter who answers this: Given the fact that the provincial government has considerable revenue shortfalls and we're trying to share the difficulties with all ministries—I know it was noted that Comsoc has increased its welfare payouts considerably. Well, that's because there's an incredible number of people on welfare. I think where there are young people involved, that certainly would reflect on their

ability to go to school and what kind of lifestyle they might lead. So it's very complex. But given that you know it's a very difficult time, what would you suggest the province do with regard to the deficit? If we're looking for more money, certainly we can expect that the deficit may have to be increased, taxes may have to be increased and then we come to program, something you're very concerned about. Where do we deal with program?

Mr Schweinbenz: I would have two answers. The first answer is that we'd ask the government to be consistent. If you're going to announce that you're going to do this, let's do that. The 1, 2 and 2 put into the framework the negotiations that took place all of last year and through the fall of this year. Mr Sterling pointed out that people have settled contracts in the 2% range, and Mr Carr has said that also. Are the teachers greedy? That's what we had expected and that's what the boards expected. The 0% and 0% increase has thrown that whole set of negotiations for a loop. That's the first thing. So we'd ask the government to be consistent.

The second thing is that we'd asked the government to look at the mandatory program changes it is putting into place. We have coming into place major changes, in The Transition Years, that are mandated starting this September. We have school boards scrambling to keep their heads above water, yet they have mandated changes. These changes will take vast amounts of money just in retraining and retooling the schools, retraining the teachers and bringing in new resources for the classrooms, in the grade 9 level particularly, but also in the grades 7 and 8 level.

We would ask that the government consider taking those mandatory aspects off. We don't want them stopped; we don't want it to be said that we're asking that destreaming and those things be stopped. We're just saying, "Let the school boards implement them as they had planned, on a gradual basis and as the money is there." We have to go through about 10,000 teachers to get them up to scratch for this thing coming in this September. We don't even have the core curriculum documents in the schools yet, and it's only five months away on a school year basis. So that's one of the things we would ask.

The Chair: Mr Johnson, I'm sorry; time has run out. The other group is here. I'd like to thank the presenters for coming before this committee, and a safe trip home, if you look out the window behind me.

Mr Schweinbenz: On behalf of the Ontario Teachers' Federation, we'd like to thank you for your questions and your attention.

The Chair: Okay; thank you.

ONTARIO CONFEDERATION OF UNIVERSITY FACULTY ASSOCIATIONS

The Chair: The next group coming forward is the Ontario Confederation of University Faculty Associations. I'd like to welcome you to the standing committee on finance and economic affairs. We have until 11:30. In your presentation, perhaps you can leave some time for the members of the committee to ask questions on your presentation. If you don't mind identifying yourselves for the purposes of Hansard, you may begin right away. Pour your water. Get all set up there.

All the members have your briefs. Where did you drive in from, sir?

Dr Saul Ross: I flew in from Ottawa this morning; a pleasant flight.

The Chair: We were looking for you about 10 or 15 minutes ago. With the weather outside, I think we can expect that some of our presenters could be a little bit late, and we'll have to reschedule at different times. Go ahead.

Dr Ross: I want to introduce Marion Perrin, who is our executive director. I'm Dr Saul Ross, president of the Ontario Confederation of University Faculty Associations.

OCUFA, the organization representing some 12,000 academic staff in Ontario's universities, is pleased to appear before you again as you prepare your advice to the Legislature on the funding of universities in Ontario. We are less pleased, however, that we must once again report to you about the ravages of underfunding on post-secondary education and on the future of this province.

A Legacy of Underfunding: It is perhaps unrealistic to expect universities to be exempt from the restraint facing all sectors during this recession, but universities have already borne the burden of 15 years of government restraint policy. Universities in Ontario have been restrained in good times and in bad by governments of all political parties.

Consider the following grim facts as published in the Council of Ontario Universities' report, the Financial Position of Universities in Ontario 1992:

Ontario's level of funding per student is ninth among the 10 provinces.

Ontario's level of funding per student was below average in 1980 and declined further and faster than most provinces over the past 12 years.

University funding has declined as a percentage of provincial expenditures from almost 6% in 1977-78 to just over 4% this year.

It should be noted that according to the April 1992 report on university financing by the tripartite committee on inter-provincial comparisons, during the same 15-year period, enrolment in Ontario universities increased by almost 35% while the population of Ontario increased by slightly more than 15%. We have been educating many more students with less resources.

If the universities' share of the provincial budget had remained what it was in 1990-91, 4.33%, they would have received \$133.6 million more in 1992-93.

Damage to quality, access and equity: There is no need to document here what every study of university funding in Ontario has already shown and what the government's own advisory body, OCUA, has been telling it for years: Underfunding leads to a decline in the quality of education. Laboratory equipment needs to be repaired and renewed, and there are insufficient funds to keep equipment current. Libraries need to be well stocked with up-to-date journals and books, but continual cuts are being made in subscriptions to scholarly journals.

As faculty and staff complements are cut, student's learning experiences are placed further and further in jeopardy. Higher student-faculty ratios result in large, often overcrowded classes, less personal contact between teacher and

student and less time to devote to individual students' questions and work.

Underfunding also threatens access and equity in a whole range of ways. As our underfunded universities are less able to deal with the number of people who want a university education, they are required to set limits on first-year admissions and limits to enrolment in a variety of understaffed and underserved programs. That makes them less accessible in general, and such lack of accessibility almost invariably affects those who have traditionally had less access to begin with: those with less experience in dealing with educational bureaucracies and forms; those who have less access to the networks that provide information about educational opportunities.

1110

For those traditionally disadvantaged students who do manage to get into university, underfunding means a lack of services to support them. This makes even more difficult their attempts to both survive and excel in an environment that often appears more comfortable to those who are used to having access to privilege.

Underfunding threatens access and equity in other ways as well. Most of the modest advances that have been made in equity policies and practices in recent years—that is, equity hiring and the correction of salary anomalies attributable to gender—are being threatened by underfunding. The last-hired, first-fired syndrome threatens those who have only recently been hired as a result of attempts on the part of universities to make their workforce more representative of the population.

One hears more and more frequently that bad economic periods are "not the right time" to accomplish equity goals. Unfortunately, good economic times were also not seen as opportunities for so doing.

We agree with this committee's recommendation in its Interim Report: Pre-Budget Consultation 1992: "The government should reaffirm its commitment to a high quality, fully accessible post-secondary education system. This goal has been difficult to attain as operating grants for post-secondary education have continued to decline relative to gross domestic product growth."

Critical role of post-secondary education: Underfunding education of all kinds is a shortsighted and foolhardy policy. In the language of the economists, education is a durable rather than a consumable. The logic used by Premier Bob Rae when contrasting the kind of debt incurred by investing in a mortgage with the kind of debt incurred by overspending one's pocket money can be extended to the funding of education. Such funding should more accurately be viewed as an investment than as an expenditure. It is invested to preserve our heritage and to ensure a future society informed by cumulative knowledge and wisdom.

The government seems to have no problem viewing capital spending on universities as investment. In a recent news release, January 6, 1993, announcing Jobs Ontario Capital funding for post-secondary education, the Minister of Colleges and Universities, Richard Allen, said: "Through Jobs Ontario Capital we are investing in the future of the province by renewing the infrastructure of our colleges and universities today.... This type of public investment in post-secondary education will help

people get the skills and knowledge they need to sustain Ontario's future prosperity and quality of life."

Why is it so difficult to understand that spending for operating costs for post-secondary education is also investment? Although buildings are important, they are not directly responsible for helping people get the skills and knowledge they need. People who work for universities—teachers, researchers, librarians, technicians, support staff and others—equipped with adequate and up-to-date resources are the primary providers of such help.

The critical role of higher education and economic and social recovery has been recognized by a range of analysts. In his first throne speech on behalf of the NDP government on November 20, 1990, Ontario Lieutenant Governor Lincoln Alexander said: "Our human resources will be key to our economic future. To face the challenges of the 1990s effectively, we must become a learning society, where education and training are seen as fundamental to individual growth, where investment in people is understood to be as important as investment in capital or in research and development.... Strong, publicly funded institutions are crucial to lifelong education."

The federal government, in spite of its abdication of responsibility for post-secondary education in Canada, through cuts to the established programs financing, observed in its 1991 discussion paper *Learning Well, Living Well*:

"More and better learning means more and better jobs. Countless studies have confirmed this connection between a highly skilled workforce and a high-wage economy. How well people live, be they Germans, Australians, Koreans or Canadians, depends on how well they learn.

"Although we are still successful exporters of energy and raw materials, Canada is losing ground to industrial competitors who are simply better than we are at inventing, designing, manufacturing and marketing. Our competitors will gain not by undercutting us—but by outsmarting us."

Nor is the relationship between higher education and employment liable to change in the coming years; on the contrary. A recent article in the *Globe and Mail* by economics reporter Bruce Little entitled "Workers in 1990s must 'learn a living,'" January 12, 1993, cites figures supplied by the Canadian occupational projection system of Employment and Immigration Canada: "In 1986, only 23% of Canada's workers were in jobs requiring more than 16 years of education and training.... In the 1990s, 44% of the new jobs created will require at least that level of training."

The provocative title of the article contains the phrase attributed to Wayne Roth, director of the labour market outlook section of Employment and Immigration Canada: "You're not going to graduate once and that's it.... You're going to have to learn a living, not earn a living."

Higher education is vital to people's chances for future employment. According to the Council of Ontario Universities report, university graduates are consistently less likely to be unemployed than groups with any other level of educational attainment: "Even in the middle of a recession, graduates of a university are less than half as likely to be unemployed as the rest of the workforce. Compared to people with eight or less years of education, university graduates are less than one third as likely to be unemployed."

Higher education is vital to the health of local economies. The Alliance for Ontario Universities conducted an economic impact study in 1991 which demonstrated the vital contribution of universities to economic stability. The study showed that while Ontario universities received \$1.9 billion from the government, they generated nearly \$1.25 billion in tax revenue and resulted in \$6.2 billion in economic activity and 138,000 jobs. The study noted that the impact was particularly critical in smaller communities, where universities played a stabilizing role.

Higher education is vital to research and development. Industrial and technological innovation is primarily rooted in universities or in partnerships with universities.

Social improvements often emanate from higher education. Breakthroughs in scientific research, new knowledge about the environment, social, political and economic analyses, anti-racist education are but a few of the examples of the sorts of things universities contribute to our social fabric.

Equity and access: It is very important that the benefits that accrue to individuals from a university education not be restricted to the white, male and wealthy. The 1990s should be a period when the doors of universities are flung open to all those who have traditionally been excluded. That means more than rhetorical flourishes; it means a commitment to directing resources towards equity and access.

The government's own statements seem to affirm this commitment to equity and access. In his July 1992 Statement on Post-secondary Education, Ontario Colleges and Universities Minister Richard Allen described his views on this:

"No longer the finishing schools of the professions, the cocoons of highly educated élites, or the isolated institutes of the pure researcher, our post-secondary institutions are undergoing transformation into vehicles for an education-saturated society in which, for individuals, learning never ends, and for an economy where it will be increasingly difficult to detect where workplace ends and academy begins."

Yet the government's policies of late have reflected fiscal goals incompatible with equity and access. Do we listen to the rhetoric or watch the policies? We have to believe that actions speak louder than words.

In November last year, the Ontario government announced that tuition fees will be increased by 7% in the coming academic year. That 7% increase will bring fees for an average undergraduate arts and science student to \$2,026, not including ancillary fees, in 1993-94. Relative to the 1992 Canadian cost of living, the hike constitutes a 5.1% real increase in tuition fees, the largest in at least 15 years.

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Changes this year to the Ontario student assistance plan, OSAP, are even more extreme. Grants have been virtually eliminated. More loan money will be available and student debt is expected to increase substantially.

This is the worst possible time, with high student unemployment and more people needing post-secondary education than ever before, to erect new barriers to access. The need for student assistance can be demonstrated by the growth and demand for OSAP; 137,500 students, about one in four, received OSAP assistance in 1992. Student aid assistance has grown by 66% in the previous two years alone.

OCUFA strongly opposes any shift in student assistance from grants to loans. High student debt expectations deter all students, but especially women and those from traditionally underrepresented groups.

Current funding: In January last year, Ontario Treasurer Floyd Laughren promised transfer agencies funding increases of 1%, 2% and 2% over three years. Laughren said the long-term announcement would "help plan the reform and restructuring that must take place."

The universities, although shocked at how low the increases would be, were grateful that for the first time they knew what they would be getting for three years and could therefore engage in somewhat longer-term planning. On the basis of the figures in that announcement, institutions planned programs, negotiated contracts and developed budgets.

This committee realizes how important it is to know ahead of time what funding levels will be in order to engage in fiscally responsible planning. In your Interim Report: Pre-Budget Consultation 1992, you recommended that the government should pursue a multi-year financial plan for Ontario universities.

On November 26, 1992, the government retracted its promise. Laughren announced that the government was freezing base funding for universities and colleges for the next year. The same day, Richard Allen, Minister of Colleges and Universities, met with representatives of the post-secondary education community. He told them that post-secondary education would be getting a 1% increase for 1994-95. He stated that this was the only part of the MUSH sector to get an increase in 1994-95 and was in recognition of the capacity of post-secondary institutions as engines of economic renewal.

The government also announced that it will reallocate \$10.5 million from operating funds to the faculty renewal program and the special purpose grants envelope to cover targeted funds such as the aboriginal education strategy, the French language program and the midwifery program. Base funding for universities then will actually decrease next year by approximately 0.5%.

While OCUFA supports these equity programs, shaving money from the base budget is the wrong way to finance them. Equity should be a driving force throughout the system and funded accordingly rather than being marginalized and placed in competing envelopes.

Alternatives: OCUFA recognizes that the province is faced with tough decisions in managing provincial resources. We firmly believe, however, that the provincial deficit should not be used as an excuse to further erode education. To do so is to increase the education deficit, and the social and cultural damage from that will be far more drastic. The economic damage created by the education deficit will in turn contribute further to the province's fiscal problems.

We believe it is time to challenge the neo-conservative myth that social spending is a drain on economies. This economic analysis, popular especially in the US culture of rugged individualism, is constructed on very shaky arguments, as was made clear in an excellent series of articles last year in the *Toronto Star* written by Linda McQuaig, November 8 to 12, with a copy attached. There are by now many examples of governments that have restrained or slashed social spending in response to economic downturn. How many examples

are there where this strategy has revived an economy? How many examples are there where this strategy has improved the quality of life for its citizens? This argument for spending restraint is especially faulty in the university sector where the benefits for local economies, short-term and long-term direct employment, industrial strategies and economic recovery are well documented.

This committee, following its deliberation last year wrote in its Interim Report: Pre-Budget Consultation 1992 about the importance of providing adequate funding to universities. Recommendation 8 stated:

"It is essential that Ontario fund its universities adequately. It cannot afford the economic and social costs associated with an inadequately educated population. Economists write that that high level of education and skills is vital for economic growth and prosperity; education may be the single most important determinant of economic growth in the developed world."

We must also express our disappointment in this government's timidity to date in confronting tax reform. It would appear that the government has chosen to avoid any controversial move to shift the burden in tax revenues to those most able to pay, this in spite of this committee's recommendation that "The government should pursue fair share taxation and measures such as a minimum corporate tax and a speculation tax as ways of addressing underfunding." That was from the Interim Report: Pre-Budget Consultation 1992, page 8.

In post-secondary education policy, however, this government has shown no reluctance to shift the revenue burden to those least able to pay, through increased user fees.

The government's timidity with respect to reform of the tax system is paralleled by its seeming reluctance and/or inability to stand up to the federal government's shameless abrogation of its responsibilities with respect to post-secondary education, to name but one area. The largest, richest and strongest province in the country should be ingenious enough to find ways to mount an effective campaign against the repeated blows to its economy, infrastructure and social net.

It is with the same sorrow that we are led to the observation that this government seems to be convinced that the universities of Ontario are elitist institutions and that they are unlikely to change to become more accessible, to become more equitable. It is behaving as though universities should be written off as vehicles that can play a part in redressing the inequities that exist in our society.

The problem with such a stance is that it has the potential to become a self-fulfilling prophecy: Universities become less accessible to less advantaged members of the population. Those denied a university education remain less advantaged, those who can afford one remain advantaged and the universities end up being elitist institutions.

We do not share this view. Universities, like many other institutions in our society, have historically served relatively homogeneous populations. To change this requires the provision of resources, incentives, encouragement and assistance. We believe that universities can change to become more representative and inclusive institutions, but this is very difficult to accomplish when they are continually starved for funds.

Next year: The recommendations made by this committee last year were very encouraging. We can only concur with those recommendations and assure you that their wisdom has become even more apparent in the year since.

What will happen next year? Certainly 1% is not enough. We must ensure not only that this figure is increased but that the increased funds go to the base budgets of the universities. There must be some attempt to ameliorate the damage done this year by reneging on a commitment already made. We trust that this committee will once again show its support for a level of university funding in Ontario to ensure the continued existence of high-quality, accessible and equitable universities in this province. We hope that the Treasurer will listen.

Mr Carr: I was reviewing the budgets in the pie charts comparing education during 1984, and 20% of the spending went to colleges and universities and education, 10% to social services. It now has shifted: 17% goes to colleges and universities and education and 21% to social services.

But I was interested in your comments regarding the transfers. I've listened while the Premier, the Treasurer and members of this committee complained about the federal government and its transfer. What they have done to municipalities, universities, school boards and hospitals has been worse, but let's say as bad, and I find it rather ironic they complain about one level of government for transfers while for municipalities, universities and school boards what they've done to their transfer partners has been as bad.

You said, and I think the words you used were, "retracted their promise." I think it was broke the promise, and it was a promise that was made January 21 by the Premier, not the Treasurer. The Premier made that promise.

But my concern is with the fact that now that has been done, economists have come in here and said employment is going to be at 11%. We are now borrowing at higher spreads, because international investors do not want to lend Ontario money. What do you say to the unemployed who say that your faculty, that professors and teachers, people in the public sector, should at least accept a 0% increase at a time when most people are losing their jobs? Today, for example, General Motors will have 1,000 people laid off. What do you say to them when they say, "You're going to have a job, but you shouldn't accept any increase during this economic time"?

1130

Dr Ross: I want to come back to your first comment. I think it's important that we direct attention there. Then I'll try and answer your second question. We view what the provincial government has done to universities as the exact action that it deplored having been foisted on it by the federal government.

Mr Carr: Are you listening, Anne?

Ms Anne Swarbrick (Scarborough West): Oh, very much so.

Dr Ross: There is one major difference between the position of the universities and the position of the provincial government. When the federal government reneges or offloads its debt on to the provincial government, the provincial government has the capacity, although the political choices may be unpalatable, to find alternative sources of

funding. Universities do not have that ability, do not have that choice.

That leads to the second comment. What you have just said about pointing the finger at university faculty members accepting no increase needs to be put in historic context. If you look at what has happened in the last 15 to 18 years, due to the continued underfunding, the salary of university professors, whose income is, by and large, dependent on transfer payments from the provincial government, has eroded by over 25% in comparison to all other similar professions. If you compare university salaries to physicians, accountants, lawyers, school teachers, engineers, a whole range of people in that category, it is well documented that we are now more than 25% below.

How much more does this government or do the politicians want the university faculty members to subsidize university education? That's our question.

Mr Carr: Is there still some time?

The Chair: No. I'm sorry, Mr Carr. I was just reading a note that came in. I've got to go to Ms Swarbrick for one question.

Ms Swarbrick: It is one question, but it does have a preamble. I want to start by thanking you for the series of Linda McQuaig articles. I had missed two of them, so I'm thrilled that I now have a complete set.

I want to also start by very much expressing total agreement with the philosophy you presented in terms of the importance of education and the university system. I know that my government agrees with me still on all of that. I want to say that I appreciate also the problems all of us go through when we end up suddenly finding we've got less money than what we had been expecting.

But I want to place a context here, and the context I want to place is the situation that has presented itself to the province. Readily available is the government's Ontario Fiscal Outlook. If you refer to that, on page 2 you'll see that, first, in terms of tax revenues for the year 1991-92 they dropped by \$3 billion from the year before.

In the year 1992-93, tax revenues will be \$530 million less than we had projected last spring—we weren't alone in being overly hopeful in the projections; that was common in people's expectations—and the same in terms of the projections for 1993-94, which now look as though they're going to be \$4.2 billion lower than what we had been building on this year towards next year.

I want to point out that I think the situation that you're facing from us is in fact very different than what we faced from the federal government. The federal government has dug very deeply into the pockets of Ontario's government and taxpayers by removing \$4.5 billion last year alone and \$4.4 billion the year before. There's no way that we've reached into your pockets and taken back or cut back that incredible amount of money.

I want to point out that the kind of situation that we're in in trying to make the plans for the province I think is far worse than what you're dealing with. If you exclude the cost of the debt interest and the cost of social assistance from this year's operating budget, there has been virtually no growth in

our operating expenditures this year. We've increased them by only 0.3%.

That includes the money that we've transferred to the MUSH sector, the municipalities, universities, schools and hospitals, which means that in terms of within our own pockets in the ministries, we've gone far deeper than what we're asking you to cut by the transfer payments of the 1% and 2%, by creative means for this year and trying to hold your line the following year.

The Chair: Ms Swarbrick, can you get to the question? Mr Phillips is on the edge of his seat over here waiting to ask his question.

Ms Swarbrick: Good timing. I'm right at the question. My question then is that you believe there's alternative sources of funding open to us, and of course we've tried to be as creative as we can in finding what they are, other than tax increases people just can't afford. Do you not think, given what I've outlined to you as being the situation the province faces, that in fact we've been as protective as we can of the education sector, or can you be more specific, then, in terms of what the specific things are that you'd like to see us do differently? And I mean specific, because the generalities don't help us.

Dr Ross: What you're really saying is that you're asking me to do the job of the government, and I refuse to do that, in one sense. But I will give you the following answer.

Part of it comes from what I read this morning in the Ottawa Citizen on the plane down here, an action taken by the Bank of Montreal which has shocked the banking community. They are going into ancillary financing for small businesses to an extent of allowing them up to \$50,000 of additional credit. They have recognized that in difficult times, when you cut back and don't borrow to invest where money really should be put, you are only exacerbating the situation. While I appreciate the effort made on the part of the government in cutting its expenditure as much as possible, I think there needs to be some prudence and wisdom in terms of borrowing and investing in appropriate places. Since we have at least a 15-year history of severe underfunding in universities, to cut back or even to say, "We're giving you zero," is a further erosion in the area where there is common agreement that it is the number one place to invest.

Ms Swarbrick: You're saying raise the deficit further, are you?

The Chair: I'm sorry. Mr Phillips.

Mr Phillips: Just an observation, if I might: It really is time that the government members realize that you can't blame the federal government. The federal government increased its grants to the provincial government last year, the year we're just ending, by 20%.

Ms Swarbrick: Where?

Mr Phillips: Well, you look at the budget. You've got to get into those numbers and understand them. It went up 20%. The previous year it went up 10%.

Interjections.

The Chair: Mr Phillips, the question.

Mr Phillips: My point is this: If you actually believe those numbers, you'll never deal with the budget, and it is

time you stopped blaming the federal government for the problems. The provincial government faces the same problem the federal government does. It's the same income. Half of the income federally comes from personal income tax. You say, "The reason the universities aren't getting the money is because our personal income tax revenue is down, so we're really sorry." Then you turn to the federal government and say, "Give us, give us, give us," and it says, "We're facing the same problem."

The money from the federal government last year went up well over a billion dollars to the provincial government, 20%. Those are the facts. I'm not necessarily saying the federal government's treating the provincial government all finely, but let's start to deal with the real issues.

That gets to my point. One is an observation. I appreciate the fact that the minister committed to a 1% increase for colleges and universities in 1994-95. I had not heard that before and that's new information for me.

But when you say the largest, richest province "should be ingenious enough to find ways to mount an effective campaign against such repeated blows to its economy, infrastructure and social net," I think Mr Carr makes a good point that one could argue that the province has done the same thing to you that you are accusing the federal government of. Is it the intention of the faculty to launch a similar ingenious campaign to point out these problems?

Dr Ross: We're trying our best. We're trying to make as many people as possible aware of the actual situation. The fact is that you walk into a number of universities and you walk into laboratories where students—those who have access to these laboratories; not all students who enrol in courses do—are working with equipment that is now 20 years old and vastly outdated. There's just no money to buy new equipment. You walk into classes where at one time there were 40 or 50 students and there was the opportunity for exchange and serious one-to-one engagement in education. Those classes are now 200 and 300. Students are sitting in the aisles. Students are sitting on broken chairs. We don't have the ability to raise money.

The Chair: Dr Ross, I appreciate your attendance at these meetings this morning, especially with the weather you came through. I know we've run over a little, but a trip from Ottawa should give you a couple of extra minutes. Thank you for coming before the committee and a safe trip home.

Dr Ross: Thank you for listening to us.

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ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

The Chair: The next group to come forward is the Ontario Public School Boards' Association. Would you mind identifying yourselves for Hansard? If there are more than three of you, four can come up here and take a seat; there are enough mikes. I'd like to welcome you to the committee. As we're cutting into Gerry Phillips's lunch, we're going to go until about 10 after 12, so you're not going to be short-changed; you've got a few extra minutes. You may begin. You don't have to go through the Chair: "Mr Chair, I want to say this." Carry on and you save a lot of time, okay? Go ahead.

Mrs Paula Dunning: Okay, thank you very much. I want to begin by introducing those of us who are at the table at the front. Mr Joe Gunn is the executive vice-president of the Ontario Public School Boards' Association and a trustee on the Stormont Dundas and Glengarry County Board of Education. Linda Hamill is a regional vice-president of our association for the western region and she's a trustee on the Grey County Board of Education. Also with us are our executive director, Mike Benson, and director of policy Beverley Allen. My name's Paula Dunning. I'm the president of the association and I'm a trustee on the Central Algoma Board of Education.

I want to begin by saying that we're pleased to have this opportunity to appear before the standing committee on finance and economic affairs to share our concerns and recommendations with you with respect to the 1993-94 provincial budget.

A little about our association at the outset: We represent the more than 90 public school boards from across the province, serving over 1.4 million students. Our goal as an association is to promote public education to ensure that locally elected school boards are responsive to both the educational needs and the resource capabilities or, as is more appropriate these days, limitations of their communities.

Those limitations have recently been highlighted by the report of the property tax working group of the Fair Tax Commission, reminding all of us—and I'd like to pass that reminder on to you—of the need to move the burden of the funding of education away from the regressive property tax back on to the general revenues, which are generated from the more progressive income tax base of the province.

Like you, we are also facing the difficult task of balancing growing public needs and expectations with limited resources. We're faced with decreasing revenues from both of our revenue sources, the provincial grants and the property tax base, despite the fact that real costs and expectations, many of them imposed by the government itself, continue to rise even during this period of economic recession.

In other words, public school boards are very aware that for the education community it is not business as usual. We have therefore given serious thought to the government's November announcement of a 0% increase in transfer payments and to the political statements about public service restructuring.

We're here to recommend a three-part joint provincial government/school board strategy to address the challenges we face, and we are convinced that solutions will only be found by a cooperative local/provincial approach to those challenges.

The three strategies are briefly:

- A provincial and local commitment to education as the necessary foundation to this province's strategy for economic recovery. I couldn't help noticing that the speakers preceding us made reference to a number of the concerns that we share at a different level of educational delivery.

- A reassessment of programs and legislation to establish priorities to match available resources.

- To address some long-needed legislative changes and program streamlining to eliminate duplication and achieve cost-effectiveness.

I'll speak briefly to the first strategy and ask my colleagues to address the second two.

Education is the key to the future social and economic wellbeing of our society. In every sense it is an essential public service. A good-quality, adequately supported public education system is the cornerstone of a well-trained labour force and reduces reliance on the social welfare system. It is indeed an investment.

The provincial report Ontario Economic Outlook refers throughout to the importance of education as a prerequisite to skills development and training, and in the brief which we've provided for you, you'll see a number of quotes lifted from that report which make reference to the importance of education.

The government's inability to honour its commitment to increase its support to school boards by at least 2% for 1993 and 1994 has not altered the importance of education as a strategy for economic renewal. It has certainly made our jobs more difficult. School boards have already undergone significant cost-cutting exercises, using last year's three-year commitment to rationalize their operations to meet the historically low 1%, 2% and 2% targets which are now in fact not in place.

Although we recognize the financial realities that have resulted in the 0% increase, it has interfered with our existing plans for a planned and orderly restructuring at the local level. We're concerned that the lack of basic operating support to the educational system will jeopardize the quality of education in our communities, which is already under considerable stress.

To assist boards in protecting the quality of their programs as they adjust to the loss of an anticipated 4% increase in revenues over the next two years, it is absolutely essential that the one-time \$99 million available to education in the coming fiscal year be available for stabilization and rational adjustment to that loss.

Therefore, our first recommendation is that the Ministry of Education allocate the \$99 million in education restructuring support through the general legislative grant programs, a portion to be used for school board stabilization—in other words, to allow school boards to adjust gradually to the new reality, which is that they will not in fact be receiving the funds they banked on following the three-year commitment—and that a portion also be allocated for operations in preparation for restructuring. Boards would be happy to work with, and have indeed volunteered to work with, the government to develop joint criteria for restructuring education.

I'm going to ask vice-president Joe Gunn to speak to the second strategy.

Mr Joe Gunn: "A reassessment of legislation and programs, with the intent of setting priorities." These words are not new from the Ontario Public School Boards' Association. We have many times sat here and suggested setting priorities in conjunction with our legislative friends.

Capping the operating support to school boards for 1993 and 1994 at 1992 levels could severely affect the quality of education in the classroom. Unlike other public services such as hospitals in municipalities, school boards have less room to manoeuvre. Education is already community-based, so, unlike the hospitals, the answer is not to close beds and move to an outpatient, community-based delivery system. Education is an essential service.

Also, education is a growth service. The essential growth to the system for 1993, when one makes a rough assessment of such factors as inflation, collective bargaining, enrolment growth, the costs of new programs, educational reforms and the changing mandate, is approximately 9%.

Last year, school boards, with a 2% increase in provincial support, revised programs and services to ensure moderate property tax increases to the public. Still, the province-wide education property tax increase was 4.35%. This is based on our own survey of 60 public school boards in the province.

Teachers' salaries are the largest component of a school board budget. The 2% promise from the government was a guideline for collective bargaining, and agreements for 1992-93 are at approximately 3.5% at this point. The Ontario Public School Boards' Association supports the collective bargaining process. However, the new fiscal situation does require some flexibility.

Our recommendation is that the capping of operating support to education must be accompanied by flexible collective bargaining processes to allow school boards to adjust negotiated contracts.

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There must be the ability for school boards, in consultation with their employees, to reassess priorities and make decisions for cost-effective delivery, such as adjustments to staffing, pupil-teacher ratios, teacher prep time, benefits etc. I think we're all aware of the alternative. It will be employee layoffs and the elimination of some programs and services to our young students.

There has been much said lately about education reform, a new common curriculum, a draft education policy statement, destreaming, integration of special education, mandatory junior kindergarten and also educational technological upgrading. As well, occupational health and safety regulations and environmental regulations have all added to the cost of doing business. The Ontario Public School Boards' Association has estimated that these reforms will add 3.5% more to total education expenditures.

OPSBA does not dispute the need for change, but financial realities and the public's willingness to pay more must be a consideration. We make recommendations 3 and 4:

There must be a reassessment of all mandatory and discretionary education programs with the intent of setting government priorities to match the available resources.

As sufficient operating support to education has not been provided to implement program reform and new mandatory programs, school boards must be allowed to phase in these new policies and programs in accordance with the local needs and the ability to pay.

Mrs Linda Hamill: The recommendations in this section on legislative changes and streamlining have been presented on previous occasions, but it is still our belief that much could be achieved if the province streamlined many of the Ministry of Education's program and reporting requirements. The elimination of duplication of effort and administrative overlap between the province and school boards would free up both provincial and local staff time and resources. A key example is the school capital grant program, a highly over-

regulated and overadministered program. That's our recommendation 5:

OPSBA recommends that the capital grant programs be revised this year to (1) achieve administrative cost-efficiencies and cost savings, (2) provide a clear and acceptable provincial allocation process of funding school boards, not individual school sites, and (3) provide for local flexibility and innovation.

For example, presently the Education Act and the capital program prohibit flexibility in private sector-school board partnerships. There is overlap and duplication in the interrelationship between the capital grant plan, the building code, fire code and environmental requirements. There are onerous reporting and approval requirements. We need improvements to cash flow to avoid interim borrowing.

Property Taxes: School boards have for many years been requesting improved access to their local revenue base; that is, improved cash flow from municipalities and sharing of payments in lieu of taxes. Currently, dollars collected for education purposes are making interest that municipalities use for their own needs. The province could greatly assist many school boards by acting on past commission and task force recommendations, and now on the recommendations of the Fair Tax Commission and property tax report. That's recommendations 6 and 7:

OPSBA recommends that the Education Act and the Municipal Act be amended in this upcoming session of the Legislature to review the payment schedule to ensure a more realistic transfer of education property tax dollars from municipalities to school boards.

OPSBA recommends that the legislation be amended to provide for an equitable sharing of provincial payments in lieu of taxes among municipalities and school boards.

Mrs Dunning: Mr Phillips may get to his lunch on time after all.

In summary, the Treasurer of Ontario, in the Ontario Fiscal Outlook, has stated that we must restructure our government services and revenues. OPSBA supports that objective; indeed, we recognize that it is essential. We are also committed to ensuring that education remains responsive to provincial and community needs and local resource capabilities.

The Treasurer has also stated that we must focus on the essentials. In our view, there is no more essential service than education. Upcoming provincial budget discussions must recognize education as a priority, as an essential public service necessary to our economic and social wellbeing.

We urge you, in making recommendations, to ensure that provincial fiscal priorities reflect the stated recognition of the social and economic importance of education and that the public education sector is protected from even further encroachments by the budget process. Investing in human resources continues to be the key to our quality of life and standard of living.

Thank you very much. We will be pleased to answer questions.

The Chair: Thank you. We've got about six minutes per caucus.

Mr Johnson: Thank you very much for your presentation today. I said it earlier in another presentation, but I'll say

it again: There's a great diversity between school boards in rural Ontario and school boards in urban Ontario, and indeed school boards in the north would have different ways and means and they'd have different rates of funding from the province. I guess that because collective bargaining takes place at the board level, it would vary from place to place, although marginally. Enrolment growth would change, and new obligations and programs, so the percentage that every board needs wouldn't be exactly the same. But some boards are very efficient and some boards are somewhat less efficient. I won't say they're not efficient, but they're less efficient.

Do you see any merit in amalgamating school boards especially in areas where—let's not be too specific, but do you see merit in amalgamating school boards?

Mrs Dunning: We see merit in an examination of the whole issue of governance. We know that the Ministry of Education has undertaken that and is committed to a public examination of the whole question of governance of school boards. We think there may be situations in which coterminous boards or boards in the same general area might want to enter into discussions that would result in a sharing of facilities and increased cooperation and perhaps even amalgamation.

We are also committed to community decision-making and we believe that if those kinds of changes are to be made, they should be made by the people involved, by the communities and the school boards that exist as a result of mutual discussion and trying to meet community needs. The purpose of local school boards is to bring education decision-making into the community, and we would certainly be hesitant to recommend that this change.

Mr Johnson: The autonomy of local boards is something that I certainly think becomes a political issue, because locally people like to think they have some input into how their children are educated. I guess it's clear too that when school boards amalgamate, there may be an area where a particular school board—again, the cost per pupil or the mill rate, let's say, for a particular school board next to another area, another county; we're talking rural now. In areas where there are county school boards, the mill rate in one particular area may be significantly different than in another, although they're very close in relationship geographically, and so there could be some negative political ramifications as a result of that.

Do you think there could be cost savings in amalgamation for the province or do you think a larger board would be more efficient?

Mrs Dunning: I don't think that necessarily follows. I think we should all be flexible in terms of looking at the options that are available to us, but I don't think it necessarily follows that bigger is more efficient.

The Chair: Mrs Harrington is a born teacher.

Ms Margaret H. Harrington (Niagara Falls): I want to comment briefly, and I think you've stressed it also, that we have to find new ways of doing things and that you are open to that cooperation and streamlining. I want to comment briefly about the capital expenditure program you mentioned. I believe that with your help and the ministry looking at this—it's a cumbersome kind of process just from the little bit I know about it and I think that's one area we can look at

together and see if there's a better, more efficient way of doing things.

The Chair: I'd like to welcome Mike Cooper to the committee today. He has a new face on there. I'm glad you drilled through that snowstorm to get here.

Mr Johnson: He does have a new face.

The Chair: It is a new face. I did not recognize that unshaven man over there. We'll go to Mr Phillips.

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Mr Phillips: One of your recommendations is moving the burden off the property tax and on to—I think, speaking personally, the one thing that the NDP government, in my area at least, really trumpeted was that, moving it off the property tax and on to general revenues.

I don't know whether any of you participate in the Fair Tax Commission, but can you give us any thoughts in terms of how much is reasonable to move off the property tax and when we should expect that to happen, based on the property tax commission's report, any thoughts on perhaps where we might raise the money?

Mrs Dunning: We have a staff person who spent some time liaising with the Fair Tax Commission people.

Mr Sterling: She doesn't want to be asked.

Ms Beverley Allen: I actually was a committee member of the property tax working group and there was a fair bit of discussion about education equity and taxation and the adequacy of the property tax in funding education. The conclusions and consensus out of that group were that there should be an increase in provincial support from provincial revenue bases for education, which you're aware of, but the committee stopped short of saying where the province should get its money from, for many reasons.

If one looks at property tax, and this was one of the first studies that tied property tax data to income data and looked at the property tax and ability to pay, I think they came to some interesting conclusions in terms of shifts one could then translate, once the size of the pot is determined, in terms of equalization and formulas in terms of—the suggestion is that equalization should be done, not necessarily on assessment but on income within the jurisdiction.

Mr Phillips: I'm sure the government has a plan, because that's the basis it ran on. I guess you don't know when that plan will be announced, then. Monte, did you have—

Mr Kwinter: One of your concerns is the program funding for destreaming from grades 7 to 9. It's evident with the statements made by the government that the transfer of payments is set, certainly through 1994, and yet it is mandating that this destreaming take place in the coming year. Given the fact that you're not going to get the money—it doesn't seem like you're going to get the money—how are your member boards going to deal with this particular situation?

Mr Phillips: Over to you, Paula.

Mrs Dunning: It's over to me. I think they're going to deal with that situation in the way they're going to be dealing with a lot of situations. Destreaming is one new initiative. It's been getting a lot of public attention of late, but it's only one. There are a number of new expectations that have been

placed on school boards in the last couple of years, new programs that are being implemented.

The school boards have, as I mentioned initially, two sources of revenue. One of them has been held absolutely fixed and the other one I think is not much more flexible. I don't think we have very much more room, if any room at all, to move into the property tax base.

There are some school boards that are saying they simply will not be able to implement new programs. There are others that are looking for ways to implement new programs by eliminating existing programs that may not be mandated. I know that when they do that they question seriously whether it's the right way to go, because at this point in time there's not a lot of fat left in terms of the programs and courses that are being offered by boards.

Boards are continuing to look actively for ways to be more efficient and they're finding them. I wouldn't want to suggest that there are no new efficiencies that boards can find. I think they keep looking and keep finding them, and that will continue. But the reality is that 80% of school board expenditures go to staff salaries for teaching staff and support staff. If boards are looking for ways to save significant sums of money, that's the only place they have to turn to to make significant, substantial savings in their operating costs.

Boards will try to implement these new programs, including destreaming, with as little disruption to their ongoing programs as possible. But if they go ahead and implement them, I think you can be assured that you're going to see repercussions elsewhere in the programs.

Mr Sterling: I represent part of the area of Carleton and went through a rather bitter strike, particularly in the secondary people. There was very little support for the teachers in my constituency, none that I could find outside of the teachers themselves.

Is the bargaining system, in terms of individual—I mean, the ploy of the union was to play their particular pact against another one. That's been sort of the whole idea of collective bargaining in Ontario and bargaining across our province for the last, I guess, 10 years, as they go out and get a good settlement from some board because of some reason and then everybody compares themselves with that particular board. There's been this tendency to go to the highest denominator across the province.

I've sat on another committee, agencies, boards and commissions, dealing with the community colleges where the bargaining, as you know, is province-wide. My feeling at the time was that there wasn't enough local pressure on the teachers in our colleges to settle and that there were sometimes—there was some argument that it should be piecemeal, as was the case in terms of the—but I'm not so sure I'm right any more.

Have you got any comments with regard to bargaining? Should it be done province-wide or is it still best on a piecemeal basis? It seems that the teaching union has used it to its greatest advantage at a cost to the taxpayer.

Mr Gunn: You bring up a topic that we as an association have been discussing ourselves, that is, provincial bargaining—regional bargaining perhaps, because of the differences in the various regions—or leave bargaining at the basis at the

school board. I think the association feels that you have to have the local people involved in the process. They have to feel they have some sort of ownership. I think that's very important.

What we're suggesting is that we be given the opportunity not to open up the contracts because we could be accused of contract stripping or anything, but there are some areas in there which we and our teaching staff I think could work on, the grid for instance. Let's say a board gives an increase of 2% to its teachers in line with the guidelines as laid down by the minister last year, and there's another 1.5% in expenses. Basically we have a 3.5% increase. That puts us 3.5% in the hole because we're not getting that 2%.

It was rough enough at one time to try and negotiate the 2%, but when you try and negotiate the additional compensation, it just puts it into a situation where we get tremendous hostile feedback from the community and it's very difficult when you represent 90-odd school boards across the province from Thunder Bay to Renfrew where they have little, in a lot of instances, in common. I don't know if I'm answering your question or not.

Mr Sterling: I guess you're telling me that the present system would be better than going to a regional or a provincial system.

Mr Gunn: I think as far as we're concerned the jury's still out on that; we're still looking at that. There is a lot of pressure from various sections to look at some regional bargaining, but there's also pressure to leave it the way it is. We're not prepared at this time to take a stand on that as an association.

Mrs Dunning: Could I elaborate on that just to provide one little piece of information? I've been involved in collection bargaining at the local level for quite a long time and one of the things that's really changed—I don't know if this directly answers your question or not—but the spread is just not nearly as great as it used to be.

It used to be that to be high-balled/low-balled across the province meant spreads of thousands of dollars on individual grid positions. Well, that's no longer true. You can be in the top 2% of settlements in the province and your grid isn't that much higher than the bottom 10% of grids in the province.

The spread has narrowed enormously in the last I would say 10 years. I don't know what that says, whether it says the system's working or it isn't working. If it means that everybody's moved up closer to the top, then I suppose it isn't working from our point of view. If it means it's become a rationalization process, then perhaps it is. I guess the jury is still out, but that change has taken place. The difference across the province in terms of salaries is not nearly as great as it was a number of years ago.

Mr Sterling: In looking at your appendix A, the per cent average increase is quite in excess of inflation. Teachers in general have a very protected position and it's very, very difficult for my constituents to understand why people who have a very protected job should benefit to this amount. I'm saying the system in some way has got out of whack. From what you've told me, I draw the assumption that the unions have driven the base up to the highest and have been successful in that at the expense of the taxpayer.

Mrs Dunning: On appendix A, above the horizontal line, you're looking at figures that essentially reflect the transfer payment that was provided for boards during the year in which those contracts were negotiated. When you look below the line, you're looking at what's taken place as a result of the current fiscal situation. We have some updates on those figures which are incrementally lower.

As contracts continue to come in, those numbers keep dropping, as you can understand. But I think the numbers above, the 5, 12, 4, 9, 7, those numbers in fact are not inconsistent with the transfer payment amounts that were passed on to school boards in the year and they're not inconsistent with the provincial government's own settlements with its employees during the fiscal year for which those contracts were negotiated.

Mr Sterling: The argument you make with regard to there not being much difference now across the province leads me to the conclusion, why bother with whatever number of negotiations there are? Is everybody spinning their wheels for naught? You enter into negotiation for teachers, and if there isn't any difference between what's happening in Stormont, Dundas and Glengarry versus Huron county, why is all this energy being expended if nothing is different?

Mr Gunn: I think we've been caught in a catch-22 situation. The union for the teachers is bargaining based, I think we could say, on a provincial basis. They interface one county with another county on this 72-numbered structure they've got. They'll say one board is 1.7% less or a matter of \$500 or \$600 less than another board, and they'll use that, not taking into consideration the economic impact on that community itself. This in itself is unfair.

Basically, if you were to ask me do we have provincial bargaining, I would say to you that as far as the teachers are

concerned, yes, in everything but name. I think that's highly unfair to the local communities.

The Chair: I'm going to have to say that time has expired. This committee will be recessed until 1:30 this afternoon. I'd like to thank you for coming before this committee with your presentation.

Also, I have a letter here from the Treasurer which is dated December 16. I think all members of the committee should have received a copy. I sent it to the subcommittee. We have some here to distribute. I think it would be important that some of the presenters have a copy also of the letter the Treasurer sent out to us, to get an idea where this committee is taking a look at the different groups coming in.

Mr Phillips: Are we having treasury staff in soon?

The Chair: We've got a letter out. It's in the mail. As soon as it's delivered back to us, we'll have them here.

Mr Phillips: I found that very offensive yesterday.

The Chair: I was a little confused on the agenda for the afternoon. I thought it was 2 to 4. I asked the question ahead of time there, but as soon as possible, Mr Phillips.

Mr Phillips: I'm led to believe that may not be until the end of February.

The Chair: February 22.

I want to cut in. Another thing I just want to bring up, it's been brought to my attention that any pagers members have in committee, they'll have to turn them off while they're sitting in committee here.

Mr Brad Ward (Brantford): Why?

Clerk Pro Tem (Ms Lisa Freedman): Speaker's ruling.

The Chair: We're adjourned until 1:30.

The committee recessed at 1215.

AFTERNOON SITTING

The committee resumed at 1336.

The Chair: We'll resume the budget consultations of the standing committee on finance and economic affairs.

COUNCIL OF ONTARIO UNIVERSITIES

The Chair: The first presenter this afternoon, from the Council of Ontario Universities, is Dr Peter George, president, and your associates. I don't have them marked down, Dr George, if you don't mind introducing them to the committee. You may begin. You have until 2 o'clock.

Dr Peter George: We're delighted to be here. Norm Shulman is associate director of policy of our research division. Jim McAllister is a senior research associate in that division. Sitting behind and over my right shoulder is Pat Adams, the director of communications and public affairs.

The Chair: Dr George, I invite her to come forward and take the other seat. A wealth of knowledge shouldn't be sitting in the back row.

Dr George: Thank you, Mr Chairman. She's by nature very shy, and it was difficult to persuade her to come to the front.

We welcome this opportunity to meet with the committee and to participate in your pre-budget consultations. We have prepared a brief, which has been distributed to members of the committee. I don't propose to read the brief, but I would like to speak to it and then to field questions from committee members. We believe we have a very straightforward but vital message to leave you with today.

My brief begins with a review of the current economic situation. The basic point we make is that restructuring is a reality brought upon us in Ontario by the weakening competitive position of the Ontario economy and in particular the weakening position of natural-resource-based manufacturing as a key component of industrial strength in Ontario, a traditional one but one whose future is somewhat limited.

We point out, as others have done, that Ontario must now compete in the global economy. This means many things for Ontario, but in our view it means in particular, whether one is dealing with a large multinational corporation or a smaller local business, that we have to have the appropriate skills available in our workforce to ensure our future competitive position.

I then go on to talk about a prescription for change in the economy. Much of this discussion is related to our particular brief for producing highly skilled technical expertise in the form of university graduates. I think it's quite clear to all of us that Ontario will not be able to attract new economic opportunities on the basis of cheap labour. In this regard, we are significantly behind, if I can use that term, many other countries and the Third World particularly, including Mexico. So our comparative advantage in the development of new capacity will be our highly skilled workforce.

We've been told by many experts that more and more advanced skills will be required in the workplace tomorrow, that most jobs will require 17 or more years of education, that knowledge will become the very basis of our economy. It is no accident that we've had an enormous increase in the interest

in continuous or lifelong learning. Education is no longer viewed as a one-stop process in one's lifetime, but we expect more and more that people will have to revisit educational facilities for upgrading and upskilling.

We know too that the public attaches great priority to this issue, and I report some of the recent results of the Maclean's-CTV survey that showed that many Canadians polled accorded great significance to education and training, rather more than to controlling deficits and government spending, I might add. There are other studies which corroborate this finding, including one by the Ontario Institute for Studies in Education.

We admit that a qualified workforce is not the only solution to our economic problems, that it's not sufficient, but it certainly contributes in a number of ways. It would help us fill existing vacancies for high-tech positions that are currently going unfilled and it would help us attract new investment. Developing our workforce is not sufficient, but it is an important and necessary component of the solution.

What I do in the next section is identify four ways in which the university contributes to provincial economic renewal. The first way is the university as an employer. Here we present some data that were contained in the economic impact study of Ontario's universities that was the subject of a very successful press conference and subsequent media coverage a year ago November in this very building. The salient points of this are that the sector is large, has a significant employment and income multiplier, so it has a substantial influence on the Ontario economy. The employment in our sector is larger than that in the pulp and paper industry, the chemical products industry, the primary metals industry or the textiles industry.

These are the kinds of orders of magnitude that many people are unfamiliar with, that the universities are such a significant employer and contributor to economic activity. If you look at the communities in which the universities are domiciled, they are important employers because of the scale of employment they offer but also because of the employment stability. They become, then, one of the anchors of the local and regional economy.

Second, we identify the university as producer of human capital. Universities certainly produce highly skilled people such as engineers and scientists. These people contribute to the economy by spending the incomes they earn and by paying taxes on those earnings. Moreover, they are a primary source of innovative thinking and innovation, and that innovation becomes encapsulated in new economic opportunities and generates economic growth both in income and employment.

The employability that arises for university graduates is one the features of which I think we've made you aware on many occasions in the past, but I'll repeat them very briefly. The unemployment rate for university graduates is far lower than it is for the average, less than half of the average at the end of 1991, for example. University graduates earn more than others in the labour force, significantly more. This is one reason we have put forward a proposal for income-contingent repayment plans as a means of funding student assistance programs. I'll return to that later on.

One of the things that was picked up in the press earlier this session was the OECD data that show that Canada is near the top of the list of member countries in spending on education. But I would point out that when you break the data down, we are big spenders mainly because of our expenditure levels on primary and secondary education, and not because of our expenditure on the university level of education.

Ms Swarbrick: We should have heard from you before we heard from OCUFA this morning.

Dr George: Yes, well, timing is one of those accidents of scheduling.

We do boast a very high rate of accessibility internationally. We do less well in comparisons of some of the kinds of graduates we produce, scientists and engineers, for example. In our production of engineers we rank 16th of the 20 countries; in science degrees, we are significantly lower than many of our chief international economic competitors. We have to improve on the number of scientists and engineers we produce, but we also have to ensure that we offer them the quality of education that allows them and us to compete internationally.

Many other countries have the jump on us in terms of committing additional resources to higher education. It's interesting for many to see that a state like Arkansas spends significantly more on higher education per student than does Ontario.

Even those people who already possess considerable skills will need to update those skills. I think that point is sometimes lost sight of as well. Professional associations, for example, will increasingly want their members to become familiar with new technology and new techniques; they require this to be successful in global competition. All of these realities require sophisticated education, the availability of courses tailored to skilled people who hold jobs and must work while they learn, who must learn quickly in order to resume their jobs. We will need teachers to teach those who continue to learn in a variety of ways, and these are contributions best made in many areas by universities.

The frustrating, even frightening, aspect is that many in government have not recognized the integral role of the university in providing this type of education. Many of the other educational contributions of the university are not widely known. So I turn in point 3 to the university as a trainer and retrainer. We are no longer limited to providing post-secondary education to young people drawn immediately out of secondary school prior to their entry into the labour force. Increasingly, the campuses of our universities are populated by older students, people with previous work experience, part-time students and people seeking retraining or more training. It's vital that we make you aware of this role. It is what is often viewed as a non-traditional role for universities, but it is one that has been developing for many years, one that we foresee will continue to expand in the future.

I present a number of examples of university involvement in this kind of training and retraining. The first is a joint program between Ryerson's continuing education division and IBM for training and updating of up to 350 IBM employees. The second is a customized training operation provided by the University of Guelph to the food industry, with a view

to developing a globally competitive food industry in Ontario. The third is an example drawn from the University of Western Ontario, which is working with the London Unemployment Help Centre to provide computer training and upgrading for people who have recently become unemployed.

These examples, I think, provide you with some idea of the way in which universities are currently offering non-traditional forms of training to a wide range of people who are seeking to upgrade and update their skills. In fact, there are as many registrations in continuing and part-time education in Ontario as there are full-time undergraduate students, close to 200,000 of each, and this does not include persons who benefit from customized courses which universities provide for particular companies or labour groups.

The fourth, and one that I think has been extremely important to us, is the university as a research partner. We contribute to renewal through research that leads to innovations and frequently to the formation of new companies. I think the four-part series by David Crane in the *Toronto Star* recently on the University of Waterloo's success in generating about 100 companies as a result of innovations in the university's labs makes the point in a way that I can't. Enough said.

A lot of these projects, of course, are university-industry joint projects. There have been a couple of programs that have been quite important in this area. The seven centres of excellence funded by the provincial government: I've seen a significant increase in graduates who are employed in Canadian industry and increased numbers of patents associated with those centres. The university research incentive fund, or URIF, has been extremely important, with over 600 projects, with funding directly from the government as well as funding from industry and other sources.

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These contributions in the four areas I've mentioned are but some examples of the way in which our universities promote provincial renewal. We are quite concerned, however, by several indications that government is failing to recognize and support the full extent of the university role in renewal. This is not simply a concern for the university; it's above all a concern for the impact this failure can have on Ontario's society. If we need more mechanical engineers or microbiologists, we either attract them from other countries or we produce them here.

The former method exposes us directly to intense competition with other jurisdictions, not only in Canada but across the world. The latter method, producing them ourselves, is certainly more reliable but it requires time. You cannot turn on the tap and produce an engineer in a few months; it takes years. What we do now and in the next year or two will affect our ability to compete for many years to come.

We then move to a section called "Action Plan—Some Specific Proposals." We aren't trying today to add to your level of alarm. I know on Monday, when you heard from professional economists, you heard many tales of doom and gloom. We don't want to add to that alarm. What we want is to point to an avenue of solution to the problem. It begins with your recognition that we are already playing a major role in training and retraining and basic and applied research, and we are doing so without sufficient support from government and industry.

We urge you to recommend to the Treasurer some bold steps to ensure that a greater contribution can be made by your universities through advanced training and through research. Here in Ontario, for example, the URIF program has been a real success, according to the recent assessments. We urge that this program not only be continued but that it be enhanced.

Similarly, the centres of excellence have produced important advances. We need to foster more of this kind of innovative action. We must ensure that our universities can produce and retain highly skilled scientists and professionals with advanced technical skills. We are suffering from years of financial constraints and in many cases we lack up-to-date facilities and equipment, but the thrust of my message today is not that we have suffered historically from underfunding and continue to do so. I do worry that many of our most promising students will accept opportunities in the United States or abroad where they can find the latest and the best facilities. I am concerned that we are devoting a great deal of time, effort and resources to meeting a growing burden of regulatory requirements placed on us by government.

There is little to suggest that the resources consumed in addressing these regulatory requirements contribute positively to the teaching and research activities of our institutions. We need to examine carefully the intent and impact of these imposed restraints and roll back and limit the unproductive ones that impede progress with the teaching and research agenda.

We urge the committee to recommend programs to facilitate the reduction of barriers to mobility in the educational system in order to allow people in the province to enter or re-enter the system at different points, consistent with their needs, with a maximum of efficiency. Programs to facilitate cooperation and appropriate disciplinary and professional training fields between universities and colleges are one type of improvement that we are advancing and that you can promote. We understand that the task force on advanced training will make recommendations in its report to be released next month to further joint efforts of the CAATs and the universities, particularly with respect to post-diploma training. Government support for this type of institutional cooperation can assist in building a more efficient and effective post-secondary system.

I have talked about the need for high quality education, the need for our graduates to be able to compete with graduates from other jurisdictions. We urge you to promote incentives for high quality education in crucial fields like science, engineering and advanced technology and to reduce the sometimes stifling levels of regulation being applied to the universities. One example would be reducing some of the regulations that impede universities in developing a broader capacity to find alternative sources of revenue than reliance primarily on government transfer payments. We urge you to recommend to the Treasurer a more vigorous pursuit of income-contingent repayment as a means of flowing more resources to the universities in a manner that will allow us to maintain our already demonstrably admirable levels of accessibility.

If we are serious about lifelong learning, we must facilitate ways to make the education system a more seamless one; that is, to allow people to enter at various points and to move through the interrelated elements of the system without hindrance. The

universities have already made great progress in this area and we are working to enhance mobility within the university system and, together with the CAATs, to further cooperation and coordination between the two systems. Your support for these initiatives will be crucial to their success.

The universities are making a significant contribution to economic and social renewal now. The intensity of global competition that Ontario faces requires that we work together to maximize our universities' contributions to revitalizing the provincial economy. Support for higher education is a critical component of the future economic viability of Ontario. We cannot shortchange the people of this province by ignoring the vital importance of our richest resource: our human capital.

The Chair: I thought you were going to miss that last paragraph, which I thought was the best part of the whole report. I think you're talking to converted members already of this committee, everything you've said. I know Dr Terry White of Brock University has sold the Niagara Peninsula on Brock University and it's a very important component of the Niagara area, with business and industry and training. So I'll go on to Mr Kwinter.

Mr Kwinter: Dr George, I read with interest your report and I agree with a great deal of it. I just want to explore one of the areas that you talked about on page 4, when you compared the production of engineers and scientists in Canada with that of Japan and Germany.

When I was the Minister of Industry, Trade and Technology and we had the Premier's Council, we tried to address this particular concern and we found—and this is the question I want to ask. The implication in your report is that if the government would provide more funding we'd be able to redress that imbalance, when in fact we found that it wasn't really a matter of funding; it was a matter that students don't want to go into those particular courses. The reason they don't want to go into those courses is they see a career path as far as success and getting their BMWs and living in a condo as going into medicine, dentistry, law.

The figures for law degrees in Canada, with all due respect to the lawyer sitting on this committee, are just the reverse of what the engineers are in Japan and Germany, in that we have an inordinate number of lawyers compared to the population. It isn't the problem of funding; it's a problem of attracting both females and male students into engineering faculties. Do you have any comments on that?

Dr George: Yes, I do, because you point up an issue that I think is extremely important, one which I talked to at a meeting of the Premier's Council and the National Advisory Board on Science and Technology just slightly over a month ago. One of the major problems in this area is the particular nature of the labour market in Canada. In my view, the Canadian labour market and Canadian employers produce much stronger signals about economic opportunity for the graduates of arts programs and professional programs than for science and engineering programs. This is in part due to the nature of the structure of Canadian industry and some of the things we've associated, in the past at least, with truncated structures because of multinational corporations, branchplantism and so forth. Not true of all those industries, but for many of them the research and development is done in the United States or

elsewhere and not in Canada. So our labour market signals are very strong for people who graduate with generic skills—the ability to write, to do informal analysis, to speak foreign languages and so forth—and less strong in terms of signals for science and engineering graduates.

My point here, though, is that there's partly a supply-side issue as well, that in many cases our students have to be trained with equipment that is either relatively scarce, so the student-to-equipment ratio is very high and makes access difficult, or in many cases is outdated and outmoded, which means that the students are getting an education that I think is not at the cutting edge of competition in all cases.

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I think we can address this in a couple of different ways. We know that a university like Waterloo, for example, in its computer science program sends its graduates all over the world to companies like Microsoft, for example, which comes to Waterloo first to hire its students, so there are cases of great success.

But I think we need to restore the infrastructure of many of those departments in many of our institutions. We need to open up the horizons for employment within Ontario as well as beyond. This may call for changes in other forms of the industrial infrastructure, including government policies, the availability and packaging of government support programs to increase the demand for such graduates. It also may require our taking active efforts to provide incentives for students to enter those areas. You mention female students, for example, in science and engineering, special bursary programs aimed at redressing that imbalance, special bursaries—which I've advocated for a number of years—to attract women into science teaching careers, where there's a conspicuous shortage and an absence of role models for young women students as they choose their career paths. So there's a broad response to your question, Mr Kwinter.

The Chair: I've got to go on to Mr Sterling, there.

Mr Sterling: I'm interested in your brief in terms of, you seem to be stressing the science and the engineering end. Being the only engineer in the Legislature and—

Mr Sean G. Conway (Renfrew North): Not so.

Mr Sterling: Yes, so.

Mr Conway: Is that possible? That's inconceivable.

Mr Sterling: Inconceivable; yes, it is, but that's the way it is.

Mr Kwinter: For the information of this body, he plays the cards—you know, he's also a lawyer, so it all depends on which way—

Mr Sterling: Well, it's one of the advantages of having two cards, but at any rate—

Mr Conway: What are you doing here?

Mr Sterling: I know. That's an even better question. You play very heavily on that end of it, but what percentage of the total university budget, globally in Ontario, will go towards engineering and science faculties versus arts, social sciences etc?

Dr George: That is a figure I don't carry on the tip of my tongue, but I can get you the answer to that if you would like to have it.

Mr Sterling: I think it's relevant in that universities want autonomy and continue to demand autonomy. Yet, if your brief is laced with the rationale that you need more money to train engineers and scientists and only 16% or 20% is going towards engineers and scientists, then there's an obligation on you to change that ratio from whatever it is to 25%.

Dr George: Let me comment on one aspect of that. Training science and engineering students is more expensive per student than is the training of arts students, and in a time of budgetary restraint it makes sense, at a certain level of economic rationality, to substitute arts students for science and engineering students or to increase arts enrolment in order to subsidize the more expensive education in science and engineering.

There's no doubt that the infrastructure costs of science and engineering education are very significant and significant barriers to expanding enrolment. So if there were a major increase in the demand for scientists and engineers on the part of Canadian industry, the response from Canadian schools would be made more difficult by the nature of the expenditure requirements to bring up to speed, if you like, an expanded capacity.

Mr Sterling: Does an engineering—

The Chair: Mr Sterling, I'm going to have to go on because we're just past 2 o'clock now. Ms Harrington.

Ms Harrington: I think you'll agree, from some of the statements you've probably heard from the Premier—

The Chair: Just one question.

Ms Harrington: —that our government does agree with you that certainly education and training are a very key part of renewal and key to our economic strength in the future as part of the global economy.

But this investing in education is on a balance with the deficit. I think you can appreciate that. It's set in the context of our increased welfare rolls and also of the question of increased taxes, and I'm sure you can appreciate that those are the decisions we are being asked to make. But besides us making that decision, whatever decision is made I believe needs a public commitment to make a really important step forward. Do you see that the public does have a commitment to the type of views that you've been telling us?

Dr George: I think that in important sectors of the economy there is certainly a realization and a commitment. If you looked at the community of Kitchener-Waterloo, as Crane's series showed, there is a significant recognition of the importance of those two universities to the local economy. Many universities have completed economic impact studies that show this in varying degrees in various communities.

Second, we report some of the findings of the Maclean's-CTV poll, and of those polled, large percentages report that they believe education and training is the crucial investment of government, more important than—

Ms Harrington: The question is, are they willing to pay more taxes or see a higher deficit?

Dr George: What you've seen and what's very interesting in Ontario is that in the last year there has emerged a student group, in competition with the Ontario Federation of Students, called the Ontario Undergraduate Student Alliance,

which is proposing tuition fee increases matched, in absolute dollar amount but not percentage-wise, by government transfer payments and improvements in the quality of education with those funds and due attention to accessibility.

So there is, remarkably, a group of students which is saying, "We need to have a more rational basis of funding university education, and we, as students, see a more important role for fee revenue as a contributor to the universities' funding situation." Part of our message is that we need to have greater degrees of freedom to examine and exploit alternative sources of revenue than continued significant reliance on government transfer payments. Government transfers will always be important, but they needn't comprise 80% of our operating revenues.

The Chair: Dr George, I'd like to thank you for appearing before this committee. I know there's one alternative source of revenue. Xerox Canada, I believe, is helping out universities today, is that correct? I don't know how much. It's a pleasure having you and your colleagues here, and we'll be submitting this to the Treasurer for him to read over and comment also. Thank you.

Dr George: Thank you, Mr Chairman.

ONTARIO NURSES' ASSOCIATION

The Chair: The next group is the Ontario Nurses' Association. Would you mind coming forward and taking a seat. I only have one question to ask you today, as you're all from the nurses' association: How do you get rid of a cold?

Ms Lesley Bell: Wait for a week.

The Chair: We have a half-hour; we will run over till 25 to 2, as we were a little late getting started and we had a couple of extra questions. Would you introduce yourselves for the purposes of Hansard, and when you start talking again, maybe give your name in case we have a replacement from Hansard. You may begin. Leave some time for questions from the members of the committee also.

Ms Ina Caissey: My name is Ina Caissey. I'm the president of the Ontario Nurses' Association. With me are Seppo Nousiainen, a research officer; Lesley Bell, associate director of government relations; and Carol Helmstadter, government relations officer.

As the president of Ontario Nurses' Association, I'm here today to represent the views of over 50,000 staff nurses in this province. The Ontario Nurses' Association, as the voice of these registered nurses who work in hospitals, community health, industry, nursing homes and the homes for the aged, brings a unique perspective to these consultation hearings.

As registered nurses, we constantly see the impact of the province's grappling with the unavoidable adjustments to the current difficult fiscal realities. For us, the impact is evident, not just in the dry facts and figures of economists but in the faces of our patients and clients and our fellow nurses.

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As accurately anticipated by Health minister Frances Lankin, the accelerated restructuring of the health care system has had an enormous impact in the hospital sector. Although public statements by the minister have praised the hospital community and the district health councils for their outstanding job in maintaining service and reducing budgets,

these efforts at restructuring have not been achieved without some very painful costs.

It is fair to say that the true picture of job losses has not been accurately portrayed. While our submission notes 1,000 layoffs in the hospital sector, the most recent figures, received on January 12, 1993, from HTAP, the Hospital Training and Adjustment Panel, report 2,715 layoffs to date—not a small number. Yet this number doesn't capture the thousands of registered nurses who are affected in other ways.

For example, many employers are using attrition and early retirement as a way to reduce staff. Of course, these numbers do not show up as layoffs. Also, numerous part-time nurses who were working on a casual basis or who worked for agencies are simply not being called in. Again, these numbers are not being counted as layoffs.

One of the most important ways in which the true nature of the unemployment or underemployment situation has been hidden is through the cutback in the hours of work of part-time nurses. About 50% of our members are part-time workers. However, many of them have worked the equivalent of full-time hours for years. Now these hours have been reduced by more than half. Indeed, some nurses may not be working more than one shift per week.

The minister's announcement of the one-time increase of \$149 million this year for the hospital sector will do nothing to significantly change this situation. What is even more disturbing is that in 1994-95 there will be an actual cut to the budgets of hospitals. This will mean, no doubt, that the institutional sector will receive an even smaller proportion of total expenditure than it does now. This can only mean more job losses to come, and there is certainly no reason to believe that any significant portion of these moneys will find their way to the community and public health sector.

While the Minister of Health promises that more jobs will be created in the community over the next few years, there is no indication that the negative effects of downsizing in hospitals will be minimized in the short term by the growth of jobs in the community-based delivery of health care. Obviously, because of the interconnected nature of this problem, it is crucial that the timing of changes in the hospital sector and in community health must be coordinated.

This situation is now becoming serious enough that we are concerned about the effects these reductions in staff complements are having on patient care. The Ontario Nurses' Association certainly has no quarrel with the Treasurer's goal of the creation of a fairer and more open and democratic workplace. However, we believe it is necessary to pause and give consideration to the trend in the hospital sector to a very literal application of old-fashioned bottom line business methods without an equal consideration of the value of staff resources.

We have seen too many hospital operating plans drawn up by consultants which restructure and balance the budget by deleting direct-service-provider jobs, often to the detriment of patient care. These consultants' reports are generally taking the standard approach to corporate performance. The focus is on the old-fashioned goals of planning, organizing, staffing, directing and controlling, not on a democratic workplace where staff work together as a team to ensure good health care.

Nursing is a highly labour-intensive business which does not lend itself to stepped-up productivity rates or a decrease in the volume of work with the introduction of modern technology. Rather, nursing requires a certain body of knowledge, clinical experience and a huge degree of flexibility and skill to be able to handle all kinds of conflicting and unexpected demands.

Ironically, while registered nurses are now dealing with a wide range of new drugs and technologies, the basic nature of nursing care remains essentially unchanged. Nursing care requires the talent to balance the many conflicting demands of various patients, to recognize clinical symptoms, to encourage and work with people suffering with these problems and the ability to involve patients in actively working at the improvement of their own health. To illustrate our point, we quote from a highly experienced neurosurgical nurse describing her evening's work last month in a hospital which has dramatically downsized its nursing staff in order to balance its budget.

"Last night I had two fresh post-operative craniotomies with intracranial pressure monitors and hourly Glasgow coma scale testing, a third agitated and confused craniotomy who had pulled out his intracranial pressure monitor...on hourly Glasgow coma scale testing, and a post-op day 1 pituitary tumour who was in diabetes insipidus. Luckily all four were in the same room. The other nurses were too busy to help me or to relieve me for supper. The charge nurse," who used to have no patients and was therefore able to do this, "has almost as many patients as the rest of us. The desk clerks are now supposed to transcribe doctors' orders," formerly the charge nurse's job, "but we have so many off-service patients that the nurses aren't always sure of the orders. On some floors the individual floor nurses do all their own orders but often they don't have time to even do all the bedside care, let alone the orders and charting."

This nurse is a highly skilled and competent professional with almost 20 years of experience who was undoubtedly working at the fastest and most productive level that was humanly possible. However, patients who are as unstable as her patients were on this particular night require a great deal of hands-on care and time, which has little to do with innovation, using new techniques or working smarter. On the other hand, it has everything to do with what Mr Laughren calls "taking a hard look at priorities." This nurse's top priority of safe, effective and humane patient care was seriously at risk.

It is important to be clear that we are in no way devaluing the importance of management practices or balanced budgets, but we submit that the measure of a hospital's success must be based primarily on how well it delivers patient care. One of the most striking omissions in most of these consultants' reports is that nowhere is any mention made of the nature and calibre of the health care that the hospital is providing. What is the point of balancing the budget if the hospital cannot carry out its basic function of delivering good health care to its community? It is worth noting that in the few hospitals where the Minister of Health's operating guidelines have been implemented in good faith and with a sense of accountability to the public interest there have been minimal job losses and a far better morale among registered nurses and other workers.

Now I would like to turn to the community health sector and discuss the effects of the economic restructuring on this sector. As registered nurses in hospitals are laid off and the long-term care initiative becomes a reality, the government has said that it hopes to have these registered nurses move into the new and enlarged community health sector. The reality, however, is far less hopeful. Our association is seeing numerous layoffs in the community health sector, as local governments, which are having difficulty in funding community health services and organizations like the Victorian Order of Nurses, are replacing registered nurses with lower-paid registered nursing assistants.

The situation in the regional municipality of Kitchener-Waterloo illustrates our point. While the Ministry of Health is planning to expand the community health sector, this regional municipality is laying off 25 community health nurses. The municipality has asked the province for additional funding and this request has been refused. The regional municipality says that it cannot afford to pay these nurses. However, when we look at the municipality's 1993 budget we note that while community health funds have been cut by 14%, every other area has received increased funding ranging in size from 3% to 14%.

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As the registered nurses in Kitchener-Waterloo have pointed out, these kinds of cutbacks will only result in higher costs in other areas, with more and longer hospitalizations and an increased need for social services. It is no surprise that they have publicly asked, does it make sense to be retraining hospital nurses for community work when local governments are not prepared to keep the trained and experienced nurses they already have?

The strategy of the Victorian Order of Nurses to hire less-expensive personnel may be an appealing short-term way to balance the budget, but in the long term, the replacement of a registered nurse with a less skilled worker is retrogressive. As the level of care required in the community becomes more complex, and with the increasing emphasis on health promotion and disease prevention, nursing personnel in the community will require a high level of expertise and experience. This is not the time to be making false economies by laying off highly qualified registered nurses.

In conclusion, we urge the government to persist with its support of a more democratic workplace where staff nurses have a voice. Let us hope that these same initiatives will soon be seen in the other areas of health care.

Also, we would again, as this association has done in the past, strongly urge changes in the Audit Act to make the health care system accountable for the enormous amount of public money it receives. This accountability must extend beyond hospitals to include community health and long-term care.

Finally, we certainly appreciate that government revenues are not available to fund public services as generously as has been done in the past. We agree that the delivery of health care services must be made more efficient and must focus on essentials. However, we cannot emphasize strongly enough that the contribution of staff nurses is not a frill. The work which these men and women do is one of the most essential components of the health care system. Without registered

nurses, the health care system as we know it just simply could not exist.

On behalf of the staff nurses in this province, I would like to thank the committee for this opportunity to present our concerns with the Treasurer's fiscal and economic priorities. We would be pleased to take your questions.

Mr Sterling: Thank you very much for coming to us. I have met with the various nurses in my own area and have heard much the same story.

I represent the riding of Carleton in eastern Ontario, and in fact made a statement in the House with regard to the Victorian Order of Nurses and the conflict, which they brought to my attention, I guess more pointedly than I had thought about it myself; that is, if the government is in fact encouraging people to be taken care of outside of institutions, it hardly makes sense to decrease the quality of care outside of the institutions when a higher quality of care will be required in the home. The Victorian Order of Nurses, probably, in my area that I represent, has the highest regard in the community of perhaps most of the professions.

It's a bit of a touchy issue, because I felt that in the past nurses were not properly compensated for the work they have done, and I want to put it in that context. It seems, though, that because there have been perhaps deserved compensation increases over the recent past history for the nursing profession, that has hurt you in a way. When priority decisions are being made, be it by hospitals or by any other group, somehow the nurses seem to be attacked as the area where these institutions, these fund receivers from government, can cut back as best they—by reducing the quality of care to the patient.

Two of the economists who met with us talked about that very issue; that is, income distribution, where professions or groups had asked for and attained a higher income as a result of negotiation or whatever it is, and as a result, caused within their own profession or workplace a problem for some of their members. Is there any thought on your part on that issue? I know it would be almost impossible for a profession to say, "We have to rethink that issue in a downward way." It's pretty hard to sell to your membership. I thought of you immediately when these economists were talking.

Ms Carol Helmstadter: These issues came up, certainly, and that was something the previous presenters were talking about. We certainly have thought about it, because we have been asked if we wouldn't roll back our contract.

We believe this is a short-term problem. Our much greater problem is just what the previous presenters were talking about. To attract able and competent young people into nursing, we have to be able to compete. There are so many more options. A generation ago when I went into nursing, the options were relatively limited for women. Now there are many other choices for able people. If we want to continue to have able and talented people in the profession, we have to be able to compete salary-wise. Although it's tempting to say, "We'll just roll back the salaries and there'll be less job loss," in the long run it would be self-defeating.

Ms Bell: If I can follow up on that, you're correct. We've had some problems with getting to the \$52,000 level for our experienced nurses, but this is for a career. But we're still

looking at where the increases in health spending are going and that's to OHIP and drug benefits. It's not to the nurses.

I understand the hospitals' approach at cutting nurses, because that happens to be one of the largest portions, salaries in hospitals. If you're going to cut your budget, you hit the big point, take 10%, and it's an easy solution. We're suggesting that the easy solution isn't the right solution. You need to get the voices of the staff nurses, talk to the staff who work in the hospitals, all service providers, and look where you can start cutting and not just look at your top item.

The dealing with the fee for service is a problem and it's an area that can't go along unchecked.

One of the other areas where we suggest you're not utilizing nurses appropriately is in expanding the role of the nurse. We don't have to be used just in the area we are.

In answer to Mr Hansen, I can give him all kinds of advice on how to treat his cold. He doesn't have to go to his physician. He doesn't have to go to an emergency department to do that.

I'm limited in the legislation that governs us. I think we need to look at other ways for people to provide services, not the same old model of health care or sickness care that has historically gone on. But I will not take blame for finally getting nurses the adequate salary they deserve. Sure, our nurses are suffering because of it. That doesn't make what happened wrong.

The Chair: I'd like to thank you for that answer. I would love to go home and stay on liquids, but the chief government whip says I have to be here today.

Ms Swarbrick: First, I just want to say with regard to that issue that I do consider the nurses' situation different than others, given that your large pay awards were because of pay equity, if I recall correctly.

Ms Bell: We haven't got pay equity yet.

Ms Swarbrick: I mean because of the move towards pay equity.

Ms Bell: You may want to say historically.

Mr Seppo Nousiainen: Historically. It tends to be records kind of stuff. Actually, I think it was through direct negotiations as opposed to arbitrated awards.

Ms Swarbrick: It's a move towards it and I appreciate the need for it in your case.

First, I want to say thank you. I think you've been one of the most effective groups presenting to us in terms of being very clear about painting a picture of what's happening out there and being very specific in a number of areas with regard to recommendations. I'm really happy to hear that the involvement of nurses in corporate decision-making within the hospitals is happening to reasonable satisfaction with you. You're feeling it's working the way we want it to, so I'm really happy with that.

Along that line, I wanted to ask you, are there things you can be specific about that you think can be done within the health care system to help make things more cost-efficient, given the economics and the fiscal situation hospitals are in, besides the things you are doing? I'm thinking of things like the use of nurse practitioners or those kinds of areas, if you could be specific about them.

Ms Caissey: I think first I have to pick up on something you said, that we were being more involved in the corporate process and having input. That is not happening effectively in very many places that we're aware of.

Ms Swarbrick: I'm interested, because it sounded from here as though you were saying it is.

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Ms Helmstadter: It has happened in a few places, and in those places it has been terrific. Things have been cut and everybody's tightened their belts, but it has been equitable, everyone has taken part and there's been a much better team spirit and much better morale. We look forward to seeing that extended and we are very appreciative of the support we've gotten from the minister in our efforts to see it extended. I think that's what we were trying to say. But as Ina says, we could name the hospitals on our fingers that have actually done it.

Ms Swarbrick: Have you got some specific recommendations you could make to us, nurse practitioners or other things?

Ms Caissey: I think, as Lesley said, part of it is looking at the role of the nurse and looking at an expanded role, because there are many things that a registered nurse can do, rather than having people go and see their family practitioners, at a much more reasonable cost to the system. But I think, before we even get into all of that, we have to get our people at the grass-roots level really involved on their fiscal advisory committees so that they are having input into what is going on in their particular institution. If you can't get to the table to have a voice and if you don't get the information you need in order to know what is actually going on within the institution, it is very difficult to have any impact.

Ms Bell: If I could just add, as far as the nurse practitioner model is concerned, we fully support some move to using that kind of care provider. One of the problems historically, of course, has been who pays for it, the fee-for-service argument. You can't just continue to allow people to tap into fee for service, because it goes along and just continues to escalate.

That area of how these people are going to be remunerated has to be addressed. I think that was one of the problems historically with the nurse practitioners in the past. When they were teamed up with a physician it was a sharing of the physician's income. They had no way of being remunerated directly or through a community health centre or some kind of organization where there's money per capita, per patient and it's spread among the staff who are employed there. That kind of change from the old fee-for-service model has to happen.

Mr Phillips: I appreciate the presentation too. The message I kind of got out of it was that there's enough money in the health system but it needs to be better managed.

Ms Bell: Correct.

Mr Phillips: The two things that are of interest to me are, what's happened to jobs for nurses? My memory is of four years ago: shortage. It would be helpful for me to get some idea of how many of your members are working today versus a couple of years ago perhaps, and whether you know what happens to nursing graduates, how many of them are getting jobs.

The second thing I think we need help on is that I think all of us salute community-based health care. The challenge for us I think will be: As hospital beds close, when are we at the right number? There's the risk that hospital bed closings are being driven partially by health care needs and partially by budget needs. I think we could use your advice on how far we are from the right number. Those two things for us: Nursing jobs, how many are working? I guess maybe you'd know the hospital sector now versus two or three years ago, and what's the future for that? The graduate nurses, how are they doing? Are we approaching the right number of hospital beds now or not?

Ms Bell: Starting with the layoff issue, I think you have to look at it. Our association is looking at—somewhere our membership has decreased by about 2,800 members over the last two years, so that gives you some indication of how many fewer registered nurses we represent.

Mr Phillips: From what to what?

Ms Caissey: From about 46,000 and some down to 43,000-something.

Ms Bell: Yes, those are dues-paying. We've dropped from about 54,000-plus to about 52,000 people we represent. One of the problems that doesn't pick up, though, is that as you indicated, there was a nursing shortage, so the first layoffs didn't happen because they filled those vacancies, and you had the attrition and early retirement issue and the hospitals were still getting more money. We're looking next year at no extra moneys going to the hospitals and so we're looking at a major reduction and layoffs of our members.

Mr Nousiainen: The numbers that have been mentioned are 5,000 or perhaps 6,000 nurses to go this coming year or perhaps the next year. They're very large numbers.

Mr Phillips: That's 5,000 to 6,000, coming up in the next few months?

Mr Nousiainen: Next fiscal year.

Ms Bell: Starting April 1.

Mr Phillips: So in the next few months, 5,000 fewer nurses.

Mr Nousiainen: Yes, we've heard numbers of that magnitude.

Mr Phillips: Do you have any indication of jobs that the graduates are getting?

Ms Bell: I think you have to realize that in some instances grads are getting hired because they're cheaper than experienced nurses. And the hospital, of course, is looking to a more flexible workforce; you may want to raise this issue with the OHA as well. The problem with some of this is that nursing has always gone through this cyclical thing of no jobs—when I graduated in 1977, three of us got jobs in the province of Ontario—so it's difficult to track this kind of thing.

I was interested to listen to the gentleman before about putting people into certain areas or streams of education. If there are no jobs at the end, are we doing these people a service? I'm not so sure that the grads in nursing aren't facing that same idea, unless we pick up on an expanded role for these people.

Regarding hospital bed closures, you're going to get a different answer from us than you are from other people, because we're concerned with the level of care we can provide.

One of the problems we face is, what's safe, what's competent care? You're going to get different variations. In some instances, we already feel that patient care is jeopardized, and we do things like professional responsibility complaints, where we look at workload and indicate problems where we feel that patients are in jeopardy. We circulate those to the MPPs when they're completed. The latest one that has gone to the media was Ajax-Pickering; I think that example is illustrated in our submission.

So we already think that is happening. The number, of course, depends on the area. We've had a problem historically, where district health councils haven't had enough say in the overall decision of the community, and you've had hospital A wanting to be bigger than hospital B. We understand and recognize that downsizing was required. To a large extent, we may have already surpassed the number of beds that are reasonably safe.

Mr Phillips: I realize geographics. I think it would be helpful to all of us to get an ongoing assessment of that from the nurses.

Mr Nousiainen: In terms of bed closures, I think it's also important to realize that this is something that didn't start happening in the last 12 months. It has been going on since about 1986. The Minister of Health is fully aware of these numbers, and you can actually get these numbers.

Mr Phillips: Well, you see, I submitted a request to the ministry. I said, "I'd like to know how many hospital beds there are and how many are closed." The written response I got back was, "We do not keep those records."

Mr Nousiainen: They do, in a publication called Hospital Statistics.

Mr Phillips: I can show you the letter. That was the answer I got back from the Ministry of Health: "We do not keep those records." I'm of the opinion that we'll have to watch that carefully, because at some stage we will have gone too far. I don't know when. It will vary geographically.

Ms Bell: One of the problems with the document that Seppo mentioned is that it's at least a year, if not two years, behind. So more current and accurate figures are difficult. We can provide you with whatever we have as far as our tracking of it is concerned. We try to do that within our association.

Mr Nousiainen: There is also a monthly reporting of bed closures, so you don't really have to wait a year to get the figures.

Mr Phillips: I'll show you the letter.

The Chair: Thank you for coming before the committee.

We'll recess for 20 minutes—no, 15 minutes. That's what the clerk tells me; I just do what she tells me. There's a cancellation of the next group, the Ontario Pharmacists' Association. They're coming in February.

The committee recessed at 1439 and resumed at 1458.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: The group we have now is the Association of Municipalities of Ontario. We have three gentlemen before us. If you wouldn't mind identifying themselves for the purposes of Hansard, you may carry on with your brief. Leave

some time at the end for members of the committee to ask you questions.

Mr Joe Mavrinac: I am Joe Mavrinac, president of the Association of Municipalities of Ontario. The two gentlemen with me are Bill Mickle, vice-president of AMO and chairman of AMO's fiscal policy and labour committee; and Mr Grant Hopcroft, the immediate past-chair of the fiscal policy and labour committee and a past-president of AMO. Grant will make the presentation.

Mr Grant Hopcroft: Mr Chairman and committee members, it's always a pleasure to be here as part of the province's pre-budget consultation. AMO values this opportunity to give you our input into some of the issues that we see facing both our respective levels of government in the coming year.

The depth and duration of the recent recession have profoundly affected all of us, both at the provincial and the municipal levels of government. Periods of economic hardship force everyone to review the way in which they operate, to separate the essential from the desirable, and identify ways and means of doing more with less. People's expectations of government are that it will provide assistance in weathering these tough times and to help generate growth that will stimulate the ultimate economic recovery that we all hope will soon be upon us.

Far too often governments are perceived by the public as not providing that kind of leadership. Instead, many times we've found ourselves expending our energy arguing with one another over scarce resources or passing responsibilities from one to the other to evade political pressure, with no real benefit to our common constituents.

We've noted that in fact the Treasurer, in his opening remarks to this committee yesterday, made reference to the downloading the provincial government is suffering at the hands of the federal government. If we leave you with one message here today, it's that we hope you don't practise what the federal government's preaching in terms of your relationship with municipal governments in the coming fiscal year.

We've broken our presentation down into several headings. Unfortunately, we feel we need to start on a rather negative note. The first deals with last year's decision, which initially was a very positive one, to announce a three-year transfer payment schedule to municipal governments. Although at the time we weren't overjoyed with the level of assistance, we were somewhat comforted by the fact that at least we knew what kind of medicine we would be taking for last year, this coming year and the following year.

We remain concerned about the recent announcement, late last year, that in fact the increase for this year would be a one-time-only payment and that for 1994 we could expect to return to the 1992 levels of unconditional transfers, which represents a substantial \$38.6-million reduction in next year's budget from what we can expect for this year. We would urge the provincial government to reconsider that decision. The reduction in unconditional transfer payments can only ultimately result in either municipal tax increases or future incurrence of debt, which of course only helps out those who are in the financial institutions and doesn't help us provide additional services to our taxpayers.

Under this section, we are recommending three things: that the government continue with its three-year announcement of unconditional transfers on an ongoing basis; that the earlier commitment of 2% for 1993-94 be honoured; and that unconditional transfers in subsequent years be increased at a rate sufficient to meet increases in provincially mandated and municipally administered programs.

I've already touched on the issue of conditional transfer payments in terms of the concerns over reductions that result in downloading to the municipal sector. One example I'd like to emphasize is the fact that many of these have a detrimental impact on our ability as a province to deal with growth opportunities and investment opportunities. For example, transfer payments to conservation authorities were reduced 13% last year. That's reduced the ability of conservation authorities to deliver services related to development in our communities and proper protection of environmentally sensitive areas in our communities. It's a reduction that's had to be met by increased levies to municipal members, and that of course has an impact on our municipal tax rates.

In the area of housing, we're concerned about provincial funding for the housing renewal programs—the low-rise rehab program, the home renewal program and so on—for the next fiscal year. There were no budgetary allocations made in 1992-93 and there is considerable pent-up demand in the community. I don't have to tell the committee members here how expensive it is to provide new housing for those in need. It's much cheaper and it's a much better investment, both at the local and provincial levels, to rehabilitate and maintain our existing housing stock so that it provides decent, affordable housing for our citizens, not to mention the labour-intensive renovation and construction activity that results from this type of activity.

We've heard rumours that the province is considering recall of municipal trust funds used to finance the Ontario home renewal program, estimated to be about \$60 million. We have as a municipal sector been concerned about, I guess, the lack of appreciation of current circumstances in that the income and other eligibility criteria haven't been amended to reflect current realities. Income guidelines have not been indexed to recognize current income levels, interest payments and so on. We would urge this committee to recommend freeing up those funds so that they can be put to work stimulating economic activity and job creation in our communities, not to mention maintaining our existing housing stock.

We're also concerned about capping provincial expenditures in certain cost-shared programs with municipal governments. One area of particular concern is long-term care. We are in the midst of our municipal budget processes. As you know, upper-tier municipalities and particularly counties that deal with homes for the aged have to set their levies by March 31. We're currently required to cost-share a certain percentage of operating deficits, yet we're unsure at this point what, if any, provincial capping there might be. We urge you, first of all, not to cap, but if capping is a necessity, we need to know as soon as possible so we can properly budget for those realities.

In summary, our recommendations under this section of our presentation are that the government continue to fund housing programs and work with municipalities to revise program

guidelines in order that existing trust funds can be spent on meeting the demand for financial assistance for housing rehabilitation; that the cap on funding for homes for the aged be removed and the province make a commitment to the new level of care funding formula, once implemented, and that it not result in additional cost to municipalities over and above our traditional cost-sharing portions.

We're concerned as well that to the extent there are changes in program funding—we realize nothing can remain static in this type of climate—municipal governments be consulted on those changes so we can work in partnership to minimize the impact on our citizens.

Infrastructure funding is something we have recently discussed with the provincial Treasurer and the Minister of Municipal Affairs. We would urge this committee, in terms of program spending for next year, to consider emphasis in those areas where spending will result in an investment in our future in terms of opportunities for economic growth and stimulating economic recovery.

Infrastructure funding in many areas of the province has been reduced or in fact held back because of changes to provincial funding programs. In my own municipality, for example, the upfront sewer funding has been reduced, in fact eliminated. That's costing us about \$3 million in this coming fiscal year and is resulting in both reduced expenditures and increased borrowing to deal with the program we need in view of the new Ministry of the Environment guidelines that have been released in terms of capacity before development can be approved.

I don't think I've been before any committees recently where I haven't made at least passing reference to disentanglement, and I won't disappoint you. For almost four years, AMO and the provincial government have been discussing disentanglement and working to disentangle our funding management and delivery of services. Program decisions after disentanglement should be much easier in terms of setting our priorities both at the provincial and the local levels.

We would urge the provincial government to commit to the continuation of disentanglement or a similar process until we've dealt with the relevant issues that are before us. We have heard disquieting rumours that the province may not wish to continue past the existing phase 1 activities dealing predominantly with police funding and welfare. We feel there's a lot more work to be done to the mutual advantage of both our governments.

Community economic development is something both the Ministry of Municipal Affairs and Treasury have been spending a great deal of time promoting. As a local government sector, we feel that type of activity is most important in terms of future economic recovery and growth in our province and we urge the province to continue to work with the local government sector in this area to facilitate the type of planning at the local level that's required to stimulate true economic growth and opportunities for both the unemployed and the disadvantaged in our communities.

The issue of municipal revenue sources is something the Fair Tax Commission property tax working group has recently made recommendations on to the Treasurer. A number of those recommendations are quite strongly supported by our association. We urge the province to expedite implementation

of measures under consideration which would improve the fairness of municipal revenue generation.

In that area, abolition of the commercial concentration tax, which has been viewed by our sector as an incursion by the province into municipal revenues, is one issue. The elimination of payments in lieu of property taxes by federal and provincial governments in lieu of paying based on a fair market value assessment basis is another. The whole issue of innovative methods of funding new infrastructure is an area where we would urge the province to commit the necessary resources to implement recommendations in the near future.

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In conclusion, we would like to urge this committee to continue to foster what we feel has been an excellent relationship with municipal governments for the most part.

We are concerned that there appear to be signs of a growing tendency by your government to download on municipal governments. Recent examples are increases in laboratory fees, which are having an impact on municipal programs in the area of sewage treatment and environmental controls. There have been continuing indications that police funding is another issue that may be placed on the table outside of the disentanglement process.

To the extent that it is necessary to reallocate those funds, we would urge you to do that within the disentanglement process where proper tradeoffs and checks and balances can be put in place to allow us to work in partnership in these very difficult and trying economic times.

Thank you for the opportunity to make a presentation. I think I've stuck within my originally set 15 minutes, so we could allow an opportunity for questions.

The Chair: It seems all of you sing the same tune in the same choir on disentanglement. I'll go to Monte Kwinter and Mr Phillips after.

Mr Kwinter: How much time do we have?

The Chair: We've got 20 minutes, six minutes each. You can figure that one out.

Mr Kwinter: I just want to pose a problem and ask the same kind of question the Treasurer asked of us. In the Treasurer's projections yesterday, he was showing an additional shortfall of \$4.2 billion in revenue. That was based on a projected growth of the economy in the next fiscal year, 1993-94, of 3.8%.

Most of the analysts who have appeared before us have been saying the growth is going to be from a low of 2.2% to about 3%, so the feeling is that even that particular projection of 3.8% growth is optimistic and is not going to be achieved. This means the \$4.2-billion shortfall is going to be increased even more, which is going to impact on the debt.

The question is—as I say, the Treasurer has posed this exact same question to us—would letting the deficit go up be better than tax increases or some of the spending reductions that may be needed? What is your recommendation to the Treasurer? What would you advise him to do?

Mr Hopcroft: We anticipated we'd probably be asked something similar to that question. I think we have always, as a level of government, been very careful in advising the provincial government about interference in municipal affairs. As an association, when we've made presentations on

budgetary issues, we have endeavoured to deal with those that have an impact on the municipal level.

Obviously, the provincial deficit has an impact on all of us, whether we be governments or individual taxpayers. We're obviously concerned about the level of that deficit, as I believe every right-thinking citizen and government leader in this province is. However, we feel it's important for the government to maintain spending in those areas where there are investments in our future economic prosperity.

In our view, the priorities of the government have to be maintaining existing commitments to its funding partners and maintaining our infrastructure in a way that's safe for our citizens and that it's not falling into a state of disrepair where future costs are going to be that much higher because it's disintegrated rather than simply in need of repair.

To the extent we deal with new programs, those new programs are investments in our future in terms of economic opportunities to our citizens and job prospects for our citizens. We are concerned about new programs that wouldn't fall within those parameters because we feel those have to be the priorities if we are to pull this province, our municipal sector and our citizens out of this recession. I'm just trying to answer in as direct a way as I can.

Mr Kwinter: If I could just have a supplementary, one of the problems I have with representations made to this committee is a perception—I don't think it's a reality—that the federal government has responsibilities and it should be doing things, the province has responsibilities and it should be doing things and the municipalities have them, and none of these separate entities should be offloading on the other on the assumption that our municipal taxpayers have got enough load or our provincial taxpayers have got enough load or our federal taxpayers have got enough load.

There isn't a realization that we're talking about the same taxpayer. It doesn't really make any difference at what level they get taxed. There's only one taxpayer. There are four levels of government: federal, municipal, regional and provincial, but only one taxpayer. So just by saying, "Look, don't put the load on us. You take the load or pass it on to somewhere else," it's still the poor taxpayer who's being burdened by all of these additional expenditures because, as I've just pointed out, the revenue has got to come from somewhere. It either comes from borrowing or it comes from taxation.

Most people will tell you there is a saturation level right now as far as the taxpayer is concerned. The question is, is there also a saturation point at the level of borrowing? Have we really reached the point where we have reached that level? Do you have any comments on that?

Mr Hopcroft: My own philosophy has been that probably government borrowed too much money. However, in my own municipality—and I believe this is an experience shared by both of my colleagues here as municipalities this year—we face the prospect of having to borrow more money, increasing our debt loads, increasing our debt ratios to maintain what we feel are very important priorities in terms of our future economic opportunities.

We don't like to be placed in that position, but many of us have already dipped into our reserve funds in previous years that have been built up in the expectation that we would not

always be in the same prosperous circumstance we were a few years ago. A lot of the money that was placed away for a rainy day has already been spent.

We remain concerned, as governments, that there's a perception that because our debt loads aren't as high in some circumstances as the provincial and federal governments, somehow we have extra room within which to borrow. In fact the government recently changed our debt guidelines to allow higher borrowing by municipalities which, in some cases, is appropriate where there are high-growth areas and where there's a desire not to rely entirely on development charges to fund that growth.

But coming from a municipality where we were quite pleased to be recognized in the *Financial Times* as the most efficient municipal government of a large urban centre in the country, we are faced this year with the combined mill rate increased prospect of double digits when you look at municipal and board of education costs. That's in a municipality we consider to have been well run for many years.

Those pressures are there, some of them brought on by the economy, some of them brought on by changes to provincial government policies, new regulatory regimes that we've had to deal with, social assistance costs, which I'm sure we all recognize as something we need to deal with. We have an obligation to those less fortunate in these economic times, but all of these are having a terrible impact on our ability to deal with our programs at the local level and our services are suffering.

Many of us have frozen wages of our employees. At our local conservation authority, our employees took a wage freeze to maintain programs as best they could. In other places that hasn't been possible. Collective agreements or arbitration settlements have imposed wage settlements on us. We have to raise that money somewhere. In many cases we've already laid people off and we've already reduced workforces to the point where services are stretched to the breaking limit.

1520

Mr Carr: I apologize for missing your presentation, although I must confess I was pleased: I took a call from the Premier, who was thanking me for help. It seems that in Oakville we've just got 350 new jobs from an automotive company in the United States—brand-new jobs. I hated to miss it, but I was very pleased with the reason I wasn't here.

Initially, I had planned to come in and slam the government on transfers, but after speaking with the Premier and thanking him for his help, I'll skip this presentation and start with the next people because I don't feel I could do that. I'll save it for next time. I usually do that, but I won't. But I do have a question regarding the municipalities.

The problem we've got is that with the transfers being what they were, so many of the municipalities—I talked to the town of Oakville and the region of Halton. They say that as a result of what's happening, we're negotiating with our employees where wage increases—even if they negotiate, it goes to arbitration and they're going to get above and beyond what you're getting for transfer.

One of the suggestions that has been out there is that the provincial government should introduce legislation not only for municipal employees but for teachers and nurses and so

on to cap their wages at the same rate as the transfers. So if you've got 0%, you get 0%; 1% and so on. That would help municipalities because they would then control a big part of their costs.

Would you be in favour of the province introducing legislation? Personally, while I would like to agree with you in thinking that you should get more, looking at the provincial finances, if I was the Treasurer I would do exactly what the province did and limit it, but I would also limit the increase to the employees. Would you be in favour of the province doing that so that the costs you're facing—a big part of that is employees—don't go up and beyond what the provincial transfers are?

Mr Hopcroft: We would welcome provincial government action that had the effect of reducing some of the demands in personnel-related costs. I'm not sure whether you're suggesting wage controls in the strict sense or whether you're suggesting that the existing arbitration process be capped.

We found, generally speaking, that negotiated settlements outside of an arbitration-influenced regime have been fair. Some have been at the rate of transfer, some have been below and some have been slightly in excess of it because of recognition of other competitive factors in the job market.

Our biggest concern has been with what we view as exorbitant awards by arbitrators that bear no recognition of the current economic realities that we're all facing in this province. So if we ask for one action in the area of wage settlements, it would be to do something about the arbitrated settlements that we're facing.

Mr Carr: I think you're right. GO Transit was another example of that the other day. I know our politicians at all levels take a great deal of heat for the tax increases, but when I look at what's going to happen municipally in my area, it's not going to be the politicians who have made the decisions for the tax increases; it will be the arbitrated settlements with the firefighters and so on. I think you're right. The difficult part is that the politicians get blamed for it. So I appreciate that.

Looking at your circumstances right now and knowing the financial situation, and this may be a difficult question because you may only know your own area, what would you say is a result of the transfer payments? Would you be able to give us some indication of what this will mean in terms of the property tax owners in the province now who will have to fund a lot of the programs?

Mr Hopcroft: I think many of us had tried to work up towards our 1993 current budgets in the expectation that there would be a 2% increase, which was announced about a year ago now. We're still going to get that, but we are now concerned about the impact next year, where the indication is that levels of funding are going to be reduced by the \$38 million that I referred to earlier.

In terms of my own municipality, and I'd welcome Reeve Mickle or Mayor Mavrinac to jump in with their own experiences, a reduction in our municipality would translate into approximately 1.5% on our mill rate, which is a significant impact when you consider the other pressures we're facing.

The other thing that has a dramatic impact on us, and again the example I referred to earlier, is the elimination of the upfront sewer subsidy. In my municipality, this has a

direct impact on our capital budget this year of \$3 million that we have to raise elsewhere or reduce expenditures which need to be made if we are to provide opportunities for approvals for housing and other commercial and industrial growth in our community.

Mr Carr: On that same point, what will that mean? The concern I've got is that if it could be passed along to the property taxpayers, that would be fine, but the problem I've got is that I'm running into a lot of people, particularly seniors, who say they will be forced out if they have any more property tax increases. Speaking from a taxpayer's standpoint, because you hear from the taxpayers all the time, is there any room to increase the property taxes in your area to make up the difference or are you going to have to scrape somewhere else?

Mr Hopcroft: I agree with the comment that was made earlier. I think our taxpayers generally are saying, "Look, we are taxed to the hilt now," be it municipal, provincial or federal. Municipal property taxes obviously hit those on lowest incomes the hardest. In our community we have faced situations where seniors have been on the brink of being forced out of their homes because of tax increases. From discussions I've had with Mayor Cooper, I know that's the situation Kingston has been facing. I'm sure the situation with Mayor Mulvale in Oakville would be much the same in terms of her personal experiences. Mayor Mavrinac, do you want to add anything?

Mr Mavrinac: Yes. Any freezing, transfer or downloading by the government would have very critical impacts on northern communities, Kirkland Lake being a prime example. You have to appreciate that there hasn't been an appreciable increase in assessment over the last 25 or 30 years. In some cases, in a lot of the communities the assessment has gone down. So we don't have that cushion.

The other fact is that 65% of our revenue comes from the residential taxpayer. We have twice the average number of senior citizens in Kirkland Lake as the rest of the province does. These are the people who are being hit the hardest. With the savings they have put together over many years, they thought 25 years ago they could live comfortably for ever. It's not happening. They're starting to take mortgages out on their homes to retain them. It's a prized possession. It's the last asset they have that they want to keep. So it is critical.

We don't know where to turn. We had a financial study done, and we've reached the point where we can't borrow any more. We just haven't got the repayment capability. I don't know what's going to happen. We were counting on that 2% for next year. It was bad enough that the unconditional grant was frozen in, what, 1989 and 1990? We didn't get increases those two years.

Mr Hopcroft: It was 1988 and 1989.

Mr Mavrinac: In 1988 and 1989; that had a serious impact on our budgets. So it's not getting any easier.

Mr Johnson: I want to thank the presenters from AMO who are here today. I think the title says it all, really: Partners in Our Fiscal Future. I think that's a pretty complete statement. I just want to say that as recently as the late 1980s, the economy was growing, maybe artificially, but it was growing. Governments, provincial, federal and municipal, had opportunities to tighten their belts and probably didn't when they

should have. Because of the very difficult, dramatic economic downturn and the restructuring of the economy now, the need is there and we have to do it. I think that's very clear. So we're proceeding with that.

I know the topic of downloading is one that we speak of from time to time, and certainly the province says that the federal government is downloading on the province, and the municipalities say that the provincial government is downloading on the municipalities.

1530

As I look through your summary of recommendations, I see that you make many recommendations that request funding. As Mr Kwinter said, the taxpayer has been taxed almost to the limit and the taxpayer, whether that individual is paying taxes to the federal government, the provincial government or the municipalities, is one and the same person.

I would just like to know if you have any specific recommendations with regard to how the province should deal with the deficit. Should it allow the deficit to rise or fall? Should taxes be increased or should they be reduced in certain areas, and which ones in particular? More importantly, and I guess this is where it would affect you, how should the province manage its programs, because these are very costly in many instances and maybe reduction in some programs would be advisable.

I know that one we both share and is of great concern certainly is social assistance. It is one that municipalities and the province share and have very similar concerns about, a very important program and one that we know has a lot of merit and is certainly important for those people who receive it, but it is an expensive one none the less.

Mr Hopcroft: You can accuse me of ducking the question if you like, but I'm not going to make a comment on whether the budget deficit should increase or not. If I can re-emphasize the points I made earlier, to the extent that you have to review spending, I believe and AMO believes that the government should honour existing commitments, and to the extent that spending is reviewed, that the last spending to be reduced or eliminated is that spending which is an investment in our future, an investment in our infrastructure, an investment in our people in this province.

Unfortunately, what we fear may happen is that those program reductions that may occur or may be considered by the government will be those that will have a negative impact on our ability, as a province and as local municipalities and local governments and local industries and local citizens, to recover from this recession.

Investments in our sewage treatment plants, investments in our transportation infrastructure—our buses, our roadways, our transportation corridors in this province—are of the utmost importance, and if we neglect those kinds of expenditures, we're neglecting our future. To the extent that the government must reduce expenditures, we would urge you to do that in areas where those sorts of impacts won't arise.

The Chair: Gentlemen, I'd like to thank you for appearing before this committee, and a familiar face, Grant, again within just a month I believe.

Mr Hopcroft: Just over a month.

The Chair: We'll pass on your message to the Treasurer of Ontario in our brief. Thank you for appearing.

Mr Hopcroft: Mr Chairman, members of the committee, thank you very much for the opportunity to discuss this with you.

ONTARIO HOSPITAL ASSOCIATION

The Chair: The next group we have is the Ontario Hospital Association. Would they come forward, please?

I'd like to welcome you to the standing committee on finance and economic affairs on the pre-budget consultations. We have half an hour. We have until 4 o'clock. In that half-hour, perhaps you can leave some time at the end for the committee members to ask questions on your submission. If you don't mind identifying yourselves for the purposes of Hansard, then you may begin.

Mr Brian McFarlane: My name is Brian McFarlane and I'm here as the chairman of the Ontario Hospital Association.

Mr Dennis Timbrell: My name is Dennis Timbrell. I'm president of the Ontario Hospital Association. Mr McFarlane will present on our behalf at this time.

Mr McFarlane: On behalf of the Ontario Hospital Association, thank you for the opportunity to share information and exchange ideas with you today.

It's no news that health care in Ontario is going through a period of tremendous change. The OHA is concerned with what is at stake: not just hospital beds, but rather medicare itself.

Hospitals have demonstrated their commitment to working together in partnership and collaboration to preserve our health care system. Our written brief goes into more detail on the challenges Ontario hospitals are facing.

No one has to tell this committee that we face difficult and uncertain times. As the Premier, the Treasurer and the Minister of Health have noted, the core economy of our province is restructuring to reflect new world realities.

The new reality for both the public and private sectors involves buzzwords like "competitiveness," "productivity" and "restructuring." The management challenge for all sectors is to create leaner operations. We have to find creative ways to meet new challenges—to do more with less money. I believe hospitals have successfully taken up this challenge. Across the board, there are exciting new initiatives to find better ways of delivering services.

The total volume of patients treated in Ontario's public hospitals has grown 1.2 million since 1987-88. Day surgery is expected to reach 70% of total surgery this year, up from 53% just five years ago. In the same period, inpatient admissions have actually dropped and lengths of stay have declined.

Ontario's hospitals have demonstrated their ability to lead, to innovate and, above all, to change. Hospitals have far exceeded the government's expectations when the planning target of 850 patient-days per 1,000 Ontarians was announced a year ago. The concern is, however, that this success may lead to further unrealistic targets.

In past years, our association has provided the Treasurer annual estimates of the hospital funding requirements. For the coming fiscal year, however, and the one after that, hospital base operating budgets have been flat-lined.

About this time last year, the government announced it would hold increases in hospital transfer payments to 1% for 1992-93. A promise of 2% increases for 1993-94 and 1994-95 was also made. Hospitals felt that at least they could engage in realistic multi-year planning because for the first time we knew the extent of funding increases well in advance. OHA regrets that even this certainty has been shattered. In November, as your committee knows, the Ontario government announced a freeze on hospital base operating budgets until March 1995. For hospitals, operating plans, which for many were almost a year in the making, had to be scrapped, and there is even less funding than had been anticipated.

I must note that the Health minister, Frances Lankin, did go to bat for Ontario hospitals. As a result, the government announced a one-time grant of \$149 million for 1993-94. That represents 2% of the total base operating budgets for Ontario hospitals.

OHA is working with the Ministry of Health through the joint policy and planning committee, and consulting with hospitals to identify the best possible use of this limited amount of money, which is seen to us as a new kind of R&D fund, restructuring and downsizing the health care system and the hospital sector in particular.

The freeze on funding will continue to pose a greater challenge to hospitals, but there are other pressures on our vital sector of health care. Those pressures eat into hospital budgets, making them actually shrink. These costs include pay equity, new regulations in occupational health and safety, labour negotiations and collective agreements, and binding arbitration awards.

The purpose of our meeting today and our brief is to offer this committee, and the government of Ontario, reassurances that hospitals have shown and will continue to show leadership in adjusting to change. We also want to highlight the hurdles and the opportunities which we face together as stakeholders in medicare.

Clarification of the government's promise to fund the cost of implementing pay equity is certainly needed. At the best of times, hospitals would be hard pressed to absorb the retroactive cost of pay equity. There are also proposed regulations under the Occupational Health and Safety Act. These will have a one-time cost, we estimate, of \$88 million for Ontario hospitals. We simply don't have that kind of money. Health minister Lankin has indicated she is supportive of having the cost funded by government separately from normal budget allocations to hospitals. Our association strongly hopes that these extraordinary costs will be funded by government.

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Imposed costs do not go well with capped budgets. That's one reason the new WCB policy for employers involved in training programs is such a hardship. Put in place without any consultation or notification, it imposes a new financial obligation on hospitals in the form of additional WCB assessments.

This decision affects thousands of nursing students and trainees for other health professions. Many hospitals are taking a hard look at whether they can afford to offer training. The dependable supply of a variety of trained professionals for the health system is threatened.

Ontario's hospitals employ 160,000 full-time and part-time workers. Seventy-one cents of every hospital dollar goes to labour costs. Clearly, that is the most significant single budgetary factor for hospitals.

Last November, an arbitration gave people in the Service Employees International Union retroactive across-the-board pay increases. These increases were modest—1% effective October 1991 and 2% effective October 1992. That is consistent with the landmark agreement between the government and the public service. However, hospital budgets are frozen and every 1% increase in wages will cost hospitals about \$53 million.

There are arbitration awards pending for both the Ontario Public Service Employees Union and the Canadian Union of Public Employees. What's more, we are about to begin negotiations with the Ontario Nurses' Association and OPSEU for other collective agreements that will be in force during the two-year freeze. Where will this extra money come from to meet these costs? Hospitals do not have the ability to increase revenues.

This question affects the ability of hospitals to make creative, new, innovative plans. That flexibility is crucial to the reform of the health care system. Hospitals must continue to improve the way we do things, but hospitals have already demonstrated their willingness and ability to adapt to change.

One of the most exciting developments in health care involves new commitments to quality. I'm referring to the principles of total quality management or continuous quality improvement. Quality has been applied in other sectors of the economy with a lot of success. We need to invest in total quality management in health care.

We see this as an exciting and necessary development, but we need to continue to implement management information systems. Those will eventually allow us to quantify what we do to manage more effectively. It is difficult to improve what can't be measured, so this is a vital investment.

We are pleased at the recent commitment obtained through the joint policy and planning committee of the ministry and the OHA that the government will make funds available for this purpose. If experience in the business sector is any indicator, these investments represent money planted, not money buried. The investment grows.

So far, hospitals have responded to the challenge with greater partnerships between hospitals and other providers and a shift from inpatient care to outpatient care and ambulatory services. They've done this with minimal disruption of services and minimal disruption to the labour force.

Despite the success of hospitals to date, the government has increasingly presumed that it should try to manage the system, and we need a new understanding. The government is the insurer of services. The government's true role is to decide what services it wants and which it can afford. Hospitals must manage the delivery of many of those services. In other words, government should provide the framework for hospital services. Hospital trustees, managers and employees are the ones who should actually manage the system. Together, we are the best judges of value for money, not government. We should clarify our respective roles. Are decisions to be made locally or at Queen's Park?

In many cases, however, there's no clear definition of what constitutes appropriate care. Certainly, we know there is waste in the system. There's waste in any system. That's why the creation of the Institute for Clinical Evaluative Sciences last year was such a milestone. It will help identify waste in the system. A new working group has just been formed through the leadership of OHA to support the work of the group by ensuring hospital input into this research and the changes that will result.

Hospitals are also responding to social changes. As a result of resolutions passed at our last annual meeting, OHA is developing guidelines to increase openness and accountability in hospital decision-making.

One resolution is particularly important. It calls on hospitals, under the leadership of OHA, to create a vision of their future role within the restructured health care system, embracing a new emphasis on community and home-based care. We are dealing with that challenge enthusiastically through our Hospitals of the Future project.

There is a sense of urgency about this. There is growing concern about Canada's ability to sustain medicare as we know it today. The provinces have always determined what services they would insure within the framework of medicare. This will be more and more important as the federal government changes the way it funds medicare. The province faces a mounting responsibility to define what medicare means in the province of Ontario as a result of Ottawa's shifting priorities.

We must consider affordability. Government, hospitals, health care professionals and consumers, as custodians of medicare, must collaborate in developing a new approach to medicare focused on quality.

We appreciate that the cupboard is bare, at least for the moment. We trust that, if economic conditions improve, the Treasurer will reconsider his flat-line approach to hospital funding. OHA hopes the committee will support, when the time comes, a re-evaluation of the flat-lining of hospital funding.

We'd like to thank you. I hope this presentation has been helpful. Mr Timbrell and I would be delighted to answer any questions you may have.

The Chair: We'll start with a government member, Ms Harrington. Five minutes for each caucus.

Ms Harrington: Thank you very much for your presentation. I note on page 4 you have a word that is emphasized there. It says, "We are the best judges of value for money." I would think the "we" really refers to the citizens of that community who use that health service. Would you agree with me?

Mr McFarlane: Yes. We believe all the stakeholders have that role.

Mr Timbrell: It speaks to the issue of who's managing the system. A couple of days after the announcements in November, the Treasurer was on Mr Fisher's program and made a point of saying what a wonderful job the government had done in the last year to manage the health care system, an attitude to which we take great exception. The government doesn't manage the health care system. The people who are in the hospitals, the public health units and other elements of the system manage the health care system. The government has a responsibility to define what it can or cannot afford.

Ms Harrington: May I continue from there? I think you've made that point fairly clear in your statement here.

The best judges are the people of the community who partake of that service. If people are not happy with some of the conditions they find locally, they direct their concerns sometimes to their provincial member or to the provincial government. They write letters or whatever. I would tell them to go to their local board. Hopefully, that is an open-door process, so they can actually go to a board meeting if they so desire. I believe across the province there is not an open-door policy by some of the hospital boards.

I'd just like to go on to one other question, and you can comment on this as well. It says in here, "Hospital trustees, managers and employees are the ones who should actually manage the system." We heard from ONA this afternoon and they would very much like to be involved in that exact sentence you have written here. They certainly have much expertise. I would like to see what you have written that those employees are very much involved in having a say as to where the cuts are and how it should be managed most efficiently. The representatives of ONA said they could count on their fingers the number of hospital boards across this province where they were actually being involved in an effective way. I'd like to leave that with you and hope that from your point of view of this system you would see what you can do to change that. I would certainly appreciate it.

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Mr McFarlane: I'll just make two comments about it. First of all, the OHA is issuing guidelines to the membership in open board meetings, as I mentioned in my remarks, and a number of hospitals do have open board meetings. As to the second point about the staff and nursing involvement, the operating planning guidelines from the Ministry of Health this year really supplemented what a number of hospitals were already doing through their fiscal advisory committees, making those what you might call operating committees, to include not only ONA staff but other union and non-union employees. So I think it is fairly broad-based.

Ms Harrington: But it has to be in a very effective way. They have to get the information ahead of time, and they have to be able to digest it and fully participate in the decision-making process.

Mr McFarlane: We will encourage further involvement, but I think it has been fairly extensive to date.

Mr Timbrell: The OHA is on record, and has been for over a year, as supporting the expansion of fiscal advisory committees to include representatives of all employee groups. The OHA does support the sharing of the same information that goes to the ministry. Having said that, you heard one side. There are a lot of very difficult decisions to be made now and much more difficult decisions to be made in the next couple of years as a result of the flat-lining of funding for hospitals. So it's going to be a test of everybody's commitment to the system when employee and employer reps have to sit down and start talking about which programs have to be cut, scaled back, changed, which staff have to be reassigned, let go, and so forth. It's one thing to say, "We want to be part of the development of the decisions"; it's quite another to

participate in decisions that sometimes say some of your members go.

The Chair: Mr Johnson, a short one.

Mr Johnson: On page 1, you mention, "The total volume of patients treated in Ontario's public hospitals has grown by 1.2 million since 1987-88." I was wondering if you had the statistics to elaborate on exactly what percentage that increase is. The volume of patients treated in public hospitals has grown by 1.2 million: I don't know how to compare that. Were there 50 million in 1987-88? Were there 250 million?

Mr Timbrell: I don't recall the exact numbers, but it's roughly reflective of the growth in the population but also with an additional factor in there for the growth in the number of elderly. There is a chart—we didn't include it; we will send it along to the members—two pages of data that compare 1987-88 to 1992-93. As you go through it, you see that there are 5,000 fewer active treatment beds in the province—we've closed the equivalent of five Toronto Generals in the last five years—but the number of people actually treated in hospitals has gone up by 1.2 million cases this year as compared to five years ago. Lengths of stay are down, admission rates are down, the incidence of day surgery is up to 70% from a little over 50%, as Mr McFarlane said.

Mr Johnson: What's 1.2 million as a percentage? Do you happen to know?

Mr Timbrell: I'll get you that number. I don't recall it.

The Chair: Mr Phillips, five minutes.

Mr Phillips: If I can paraphrase what I think I'm hearing from you, the hospitals feel you can live with the money next year. What I'd like from the hospital association is, what is likely to unfold over the next 12 to 24 months as a result of that? My impression right now is that in the last two to three years we have dealt with fewer funds by closing beds. Frankly, from a health point of view, that is probably right in many cases, and probably we have fewer staff right now. But I would like to know from you how many beds we have closed in the province.

By the way, I said to the ONA earlier that I submitted that as an order paper question to the Minister of Health, and the Minister of Health said, "We don't keep those records." So I would like to know from the OHA how many beds have closed over the last two years and what has happened to staff over the last two years, and what you expect over the next couple of years. From the OHA's perspective, is that fine from a health point of view, or are we starting to bump into numbers where we should, as a Legislature, begin to worry? Also, part of that is that I think we're all committed to community-based health care. In the OHA's opinion, are we providing adequate services in the community for you to accomplish the community-based care?

I guess there's three major questions: How have you got to where we are, and what should we expect over the next couple of years? Are there any risks we should be thinking about? Have we got the right community-based care activity?

Mr McFarlane: I'll start, and Dennis is better with the statistics.

Hospitals dug deep into their operations last year in order to balance their budgets for the year ending March 1993. I

think it's because of the restructuring the hospitals have done and the good management of the institutions, which is contributed to by the nursing professions and other employees, that we've been able to achieve that and which has helped position us for 1993-94.

As we look to 1994-95 and down the road, the OHA has engaged in a number of regional consultations to determine specifically from individual regions across the province what the impact is likely to be in their regions and their communities with this kind of flat-line budgeting. Dennis has been meeting those regional conferences and I think he can elaborate on that. But we have dug deep into our organizations; we've managed. I'm not clear exactly what the implications are going to be.

Mr Timbrell: The figures we've received from the hospitals suggest that by the end of this current fiscal year, as compared to the 1991-92 fiscal year, it will be a reduction of something approaching 3% of paid hours. The total payroll of Ontario hospitals is approximately \$5 billion, so that's close to a \$150-million reduction in the hospital payroll in this current fiscal year as compared to last. Most of that has come through changes in shifts, changes in the amount of part-time work, changes in call-back, provisions for evenings and weekends and so forth. Actual layoffs in this current fiscal year have totalled approximately 2,000, of which about 750 are what we refer to as hard layoffs; that is to say, about 1,250 people have been hired back or have moved somewhere else in the province, somewhere else in the system. Hard layoffs are about 750.

Mr Phillips: Is that positions or layoffs?

Mr Timbrell: Those are actual layoffs, 2,000.

Mr Phillips: So how many positions have you eliminated?

Mr Timbrell: Full-time equivalents? If we're looking at 3%, full-time equivalents were somewhere around 3,000 in this last year.

Mr Phillips: And beds?

Mr Timbrell: In the last five years, it's 5,000. In the last two years, it's somewhere around 2,500 to 3,000, if my memory serves me correctly.

Mr Phillips: Out of?

Mr Timbrell: Out of the total of about 45,000.

One thing I did want to say in response to your question about community-based: Yes, we're supportive of the full spectrum, and we are highly critical when we come across people in the ministry or elsewhere who think in terms that it's community-based or hospital. You need both.

One concern I want to underscore, and I think it bears some thought on your part, is that hospitals are regulated, inspected, scrutinized to the hilt. We have the Canadian Council on Health Facilities Accreditation reviewing this year something like 90 hospitals in Ontario. Every hospital has accreditation. There are no standards for community-based programs. There are no ways of rationalizing and ensuring that there are not either overlaps or gaps in community-based programs.

Mr Phillips: The nurses made the same point.

Mr Timbrell: If we are to have an effective continuum, then we have to establish the standards for community-based

programs, a means of accrediting them, a means of ensuring that they, as much as the institutional sector, eliminate to the extent possible duplication of effort.

Mr Phillips: The 1993-94 number. What should we expect over the next year with the 2% and then the 0% the following year?

Mr Timbrell: I would be reluctant, as I did a year ago, to give a hard number; only to say that hospitals were counting on a 2% overall increase, and we were flat-lined and we've been flat-lined for 1994-95. We know officials of the treasury board wanted to do worse than that, so we're leery about next year. Anecdotally, what we're hearing from the hospitals is that the fine-tuning option has pretty well run its course.

1600

Mr Jim Wilson (Simcoe West): Thank you, Mr Timbrell and Mr McFarlane, for your helpful presentation. Following up on what Mr Phillips was driving at, and I think the nurses made the same point, when it comes to apparent lack of standards for community-based care across the board in the province, do you think the government might have the cart before the horse? In my opinion, your sector has suffered the most in terms of taking the brunt of cutbacks in the Ministry of Health. That's supposed to generate a deinstitutionalization dividend which is to be transferred to community-based care, as the theorists will tell us. In your opinion, though, are we moving fast enough in community-based care to pick up the slack, or are we going to have seniors and the frail elderly on the streets of Ontario with no place to go?

Mr McFarlane: As representatives of the hospital sector, we're interested not just in hospitals but in that whole continuum of care. It's our view that there is a lack of availability of that continuum in the community.

Mr Timbrell: I would add to that and repeat something we've said to the ministry on several occasions: that in the absence of any well-thought-out planning guidelines for the health care system, specifically for the hospital sector of the health care system, the hospital sector is presently in free fall. A year ago, the ministry announced a planning guideline of 850 patient-days per 1,000 population. That target was to be realized by March 31, 1995. We estimate that by March 31, 1993, the acute care portion of the hospital sector will have reduced to 840 patient-days per thousand. That's a measurement of the capacity of the system. We will have exceeded their target two years ahead of time.

When we have asked the ministry if it would provide funding for hospitals or whole regions that are already at or below the standard until the rest of the province comes down to that level, the answer has been a very firm no. It's our belief that in fact the ministry has another target it will soon announce of somewhere around 700 patient-days per 1,000, which, compared to two or three years ago, would represent a one-third reduction in the acute care capacity of the hospital sector. Yes, we are concerned.

Mr Jim Wilson: Do you get a sense that there isn't sufficient coordination or a plan in place by the government or the Ministry of Health in terms of your doing your part to pare down your budgets and meet the new standards that are thrown at you and yet the money doesn't seem to be

transferred into community-based care? In fact, the government seems to be obtaining overall savings on the back of hospitals in terms of reducing beds and staff.

Mr Timbrell: The great risk that's been spoken of repeatedly—and this is true as much of education and other public services as it is for health care, but I will speak just for health care—is that when the sole agenda item becomes restraint, that's what leads to conditions like where we are now, where we're in free fall. The one thing from which we take some comfort in the last year is that we have established the joint policy and planning committee with the ministry that puts us in a position to more effectively highlight these concerns or issues and try to be part of turning it around, to give the system some kind of purpose or direction it doesn't have now.

Mr Jim Wilson: As you mention on page 2, you've got binding arbitration awards pending, you've got new collective bargaining agreements to reach with both the nurses and OPSEU, new regulations in occupational health and safety and pay equity. Without putting prejudice to your negotiations, have you got a ballpark figure as to what the overall figure would be in terms of additional fiscal pressures on the hospital sector for this year and what the shortfall might be between those pressures and what the government has committed to date in terms of funding?

Mr McFarlane: Clearly, we are getting a zero-based budget increase, so that's what we know about our income side. On our expense side, we know that each 1% represents some \$53 million, so whatever the settlements or awards come in at, for each 1% we have a \$53-million cost problem.

The Chair: Time has expired.

Mr Jim Wilson: Mr Carr has a quick question that follows from that.

The Chair: We gave you two minutes over, Mr Wilson. Gentlemen, I'd like to thank you for appearing before the committee. Safe trip home.

ONTARIO FEDERATION OF STUDENTS

The Chair: The next group we're going to hear from is the Ontario Federation of Students, Mr Ken Craft, chairman. I see we have a new member sitting in on our committee right now, Mr Kimble Sutherland. An acquaintance?

Mr Ken Craft: A former colleague from Western.

The Chair: Okay, that's why he's here. He's going to go to the Treasurer himself, I can tell you.

Mr Craft: Hopefully the Minister of Colleges and Universities too.

The Chair: I'd like to welcome you to the committee here. We have until 4:30, and if you can leave some time for questions. As you can see, the members of the committee just love to get questions out there. Okay, you may begin.

Mr Craft: Thank you very much for making time to hear my presentation this afternoon. I'm Ken Craft, chairperson of the Ontario Federation of Students. For those members who aren't aware of the Ontario Federation of Students, it's a referendum-based organization which represents over 200,000 post-secondary education students in the province of Ontario.

This afternoon I essentially want to share with the committee our vision of post-secondary education in the province of Ontario and the advice we believe that the committee should be giving to the Treasurer and the government concerning post-secondary education funding. I was quite pleased to see that the legislative assistant to the Minister of Colleges and Universities is sitting around the table, as I'd like this advice to get back to the minister as quickly as possible.

In January 1992 the Minister of Colleges and Universities and the Premier announced historically the lowest transfer payments to the post-secondary education sector in the province of Ontario: a 1% increase in 1992-93 and a 2% increase for each of the subsequent years.

Since 1977-78 the governments of the province of Ontario have refused to accept the advice of their independent advisory committee, the Ontario Council of University Affairs, on how post-secondary education should be funded. Despite the refusal to deal with that advice, it had never been as low as a 1%, 2% and 2% increase. The lowest it had ever been was 5.1% in 1979-80 and a high of 12.1% in 1982-83.

To say the least, we were shocked, dismayed and a little disgusted when in November the Minister of Colleges and Universities and the Treasurer announced that instead of our historically low 1%, 2% and 2% increase, what we were going to get was 1%, 0% and 1%.

The decisions of this government on post-secondary education in this province, as far as we're concerned, are nothing more than shortsighted and wrongheaded. The only way to get out of the recession in the province of Ontario is going to be to invest in post-secondary education. The current government seems to be accepting the neo-conservative agenda that a reduction or elimination of the deficit is the panacea for all of our economic ills.

This is at the same time that the Premier's Council has told us in 1990 that we're living in a generation of lifelong learning. Let me quote from the Premier's report:

"A critical determinant of whether we can make the transition to a higher value-added economy will be the education skills, ingenuity and adaptability of our workers. They must be prepared for work which will demand the sophisticated knowledge and talents that are the trademarks of a truly developed nation. Our raw materials, our infrastructure and our capital will not be utilized to their fullest without the enhancements that a competent, innovative and adaptable workforce can bring to such advantages."

In the same report it was forecasted that over 70% of jobs created between now and the year 2000 will require 17 years of education. In the province of Ontario, which still has a bit of a grade 13 system, that means that 70% of all jobs would essentially require a post-secondary university degree.

The standing committee on finance and economic affairs echoed this opinion last year. They said to the minister, "We think that you should be investing in post-secondary education." Let me quote from your report from last year: "It is essential that Ontario fund its universities adequately." I'm sure that the committee didn't have in mind "adequately" as being freezing fees. "It cannot afford the economic and social costs associated with an inadequately educated population. Education may be the single most important determinant of economic growth in a developed world."

I'm hoping that the committee will be echoing these remarks this year in suggesting to the minister that, at the very least, the 2% that was promised this year be placed in the base funding and that the 2% that was promised for the third year be placed in. We know that's inadequate, but at least when it was announced last year it gave universities and colleges a chance to do some long-term planning.

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Now what universities and colleges are being forced to do is cut more jobs and allow fewer students into the system than what had already been planned. In the college system it's going to lead to severe reductions in teachers. They already signed a contract that essentially calls for a 4.5% increase next year to teachers' salaries based on the 2% funding. With 0% funding, it's inevitably going to lead to cutbacks.

The government has been talking a lot about equity and access to the post-secondary education system. With the 1% addition last year, over 2,000 positions from universities' first-year enrolments had to be cut. Over 20,000 students were turned away from Humber College this year. Obviously, at the moment the government's agenda is not providing access and it's not providing equity to the post-secondary system. This year they've implemented a 7% tuition hike, when all reports show that tuition hikes lead to a decrease in accessibility. Leslie and Brinkman in 1990 did a study that showed that for every \$100 increase, with all other things being equal, three quarters of 1% of students will drop out of post-secondary education.

This year, in November, the government announced massive changes to the OSAP system. Instead of going with what the New Democratic Party of the province of Ontario policy is, which is to move towards an all-grant system, the Minister of Colleges and Universities—

Mr Conway: No.

Mr Craft: Pardon me?

Mr Conway: Say that again, just a little more slowly.

The Chair: Gerry's looking for his Agenda for People, or is it worn out?

Mr Phillips: I've got it right here.

The Chair: Okay, carry on. That's an inside joke with Gerry.

Mr Craft: Oh, I'm sure it is.

Instead of moving towards an all-grant system of funding post-secondary education student aid, they moved towards an all-loan system. What they've attempted to do during that is also bring in what's called an income-contingent loan repayment plan. I hope I'm asked questions about that. On the surface, it sounds like a very progressive form of student aid, but it's actually a very regressive form of student aid. Instead of moving towards lifetime learning, which is what the present government tells us it wants to move towards, it's moving towards a form of student aid that's going to guarantee nothing except lifelong debt.

I'm not going to just sit here and essentially say that the villains are the provincial government. Since 1986, the federal government has been freezing the established programs financing transfer escalator, and I think the NDP government would do much better if it was spending its time lobbying the federal

government to restore EPF to its former levels rather than entering into negotiations with the federal government to move to a complete income-contingent loan repayment plan.

I think I'll just stop my remarks there. I'm more than happy to answer any questions. I hope my comments were provocative enough to get some discussion.

The Chair: It's either Mr Carr or Mr Sterling. Who's up first to bat?

Mr Sterling: Well, I just wanted to say it's pretty hard for me as a Conservative, after hearing all of this claptrap over the last five elections which I have run in in this province from the NDP candidate about all of these wonderful things that they were going to do for the students, to have this government come in and do such a complete turnabout. I think the students have probably the most reason of all to be cynical about the political process. That's my statement.

There is one part of your brief that I'd like a little bit of expansion on. I have two children who are presently in university and they're not receiving student assistance. I'm assisting them personally. I guess the part I am concerned about is your statement that the government should increase its deficit or it should not be concerned about that, because their colleagues, the young people, are saying to me, "Look, why should we pay for your generation's excessive living into the future?"

I think you should be demanding, quite frankly, that we pay our own way. You're not representing what I'm hearing through my son and my daughter. They are quite angry with politicians and governments that are overspending on this, because they're going to have to pick up the tab. They're going to have to pay for our excesses during this period of time.

Now, when you say the government should go into deficit in order to do this, how do you justify that in terms of the students I'm hearing from who are saying, "I don't want the government to go into deficit because then you're going to have to pick up the tab"?

Mr Craft: The policy of our organization at the moment is that the way to fund post-secondary education is actually through a 3% corporate tax, a more graduated income tax system. In the short term, that's not what's happening at the moment. We're in the middle of a recession. The way to get out of a recession is to spend money. If the government doesn't feel, at the moment, that it can raise that money through tax revenues, I believe it may be more long sighted to go further into debt and invest the money in post-secondary education which would bring us out of the recession and out of the deficit quicker and provide for more employment.

Mr Carr: I have a question along the same lines. I was fortunate—I guess even more fortunate when I look back on it now. I was able to get a scholarship to an American university—not because of grades, but because of hockey. I was very fortunate when you look at the costs. But having spent some time in the United States—and then eventually I guess the Boston Bruins ended up being my organization so I was very fortunate as I look back. Right now in the United States, a bigger portion is loans and, as you saw here today, whether it's NDP, Liberals or Conservatives, there isn't going to be that much more money in the system to allow a reduction in tuition fees. You asked about the student loan. In the States,

what happens is that you pay for your education and then pay it back later on.

The alternative is going to be a deterioration in the university system. It would be great to say: "The government's going to pick it up. We pay a higher percentage than the Americans. Why shouldn't we have more of a loan program?"

Mr Craft: Sorry, I didn't catch the last couple of words.

Mr Carr: Why shouldn't we have more of a loan program similar to the United States?

Mr Craft: Why shouldn't we?

Mr Carr: Yes, and why shouldn't it be like a higher percentage of the costs paid back by the students when they become engineers, politicians, premiers, member for Oxford, or whatever?

Mr Craft: I guess there will be a lot to this answer. To begin with, there seems to be an acceptance in this province that there should be a completely publicly funded education system up to the end of secondary education and then not for the post-secondary education system.

At one time in this province we used to pay tuition fees to go to high school, and the reason those fees were eliminated was that, for the majority of jobs in this province, it required a high school education to be a "productive member of society." We have now seen through the Premier's report that, in order to fill most jobs in this province, you're going to require some form of post-secondary education.

Through an educated workforce, both society and corporations benefit from it. That's why we recommended a 3% corporate tax and that we have a progressive tax system so that, let's say I truly do benefit from my education by getting a higher-income job, I would pay back a higher proportion of my income in the society to pay for the essential services such as health and post-secondary education.

What happens with a loan system and with the contingent repayment plan being recommended by Minister Allen is that it's the exact opposite. Let's say that you, Mr Carr, and myself both borrowed \$16,000 for our education. I came out making \$35,000 a year; you came out making \$50,000 a year and let's just assume our incomes stay constant over that time period. The person who makes \$35,000 year in income actually ends up paying more money because I'll end up paying back more in accumulated interest.

So the loans systems out there are actually regressive as opposed to being progressive. We recommend a progressive form of taxation in which, if you truly benefit, you pay back more of your debt to society.

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Mr Kimble Sutherland (Oxford): It's good to see you here. While your comments seemed a bit critical of this government, you've certainly heard from the Progressive Conservative Party that, if it were the government at this time, things would be significantly different in how it would approach the issue of post-secondary education.

My question to you, though, is that we just had the hospital association and many other groups in here today facing dramatic change in how they deliver public services. I think we all know that change is going on in the private sector. I guess I'd like to know from you and your organization how you see change occurring in the post-secondary education system to meet the

realities. Everyone understands that corporate tax is down, personal income tax is down, sales tax has been down over the last few years. The government has made a commitment to maintain public services and is running a significant deficit at this time. Given all those realities, what advice would you give to the government to manage some of the change in the system?

Mr Craft: I'm not going to comment on any system other than the post-secondary sector, Kimble. The only reality I see out there at the moment is a lack of will by the current government to invest in post-secondary education. What I see taking place at the moment on the university restructuring committee that the minister has just launched, which I'm familiar with, is a movement towards gutting the quality of post-secondary education in the province of Ontario. The minister's response in the briefing before the announcement in the House to how we solve the access problem in post-secondary education was to stuff a few more students, like sardines, into already overcrowded classes.

What needs to be done by this government is there needs to be a will to move to a more progressive tax system, a fairer tax system, and to invest the money in post-secondary education, because you're not going to get the sort of educated workforce you need in order to drive the wheels of this economy to get out of the recession without doing that.

Cutbacks are not going to solve the problem. It's just going to mean fewer people going to post-secondary education and the only people getting access to the education being the traditional elite. That's not what I've been hearing from the current government as being what it wants to do, but that's the signal I'm getting from the sort of things the minister has been asking his restructuring committee to look at. I don't see any movement on the access question or on the quality question. I see the exact contrary.

Ms Swarbrick: Mr Craft, I'm one of those people who, like my party, came into government with wonderful plans of what we'd like to do to improve the education system and the situation for students. On the other hand, I'm also somebody who, like my party, came into government not expecting to govern in the worst depression since the 1930s. I end up wincing of course when you call us, and therefore me, neo-conservative, because I don't feel very comfortable with that at all. I think in fact the reality shows that we're ending up being a government that unfortunately is very much having to work on very high levels of deficit financing.

I'd like to just put a context on my question to you, pointing out that the reality we're dealing with is one where government revenues fell very dramatically in 1991-92 by \$3 billion. This year it looks like they've fallen by over \$500 million again and then for 1993-94 we're looking at another \$4.2 billion gone before we get a chance to deal with it, not to mention what the federal government is taking out in billions of dollars.

To me, what we've done with the situation, at least, for instance, in terms of tuitions and the loans and grants situation for students, is the same kind of thing we've been trying to do in a number of other areas, which is to look at the reality of what unfortunately we're having to deal with and how can we make the dollars stretch as far as possible and

therefore, in terms of the situation for the loans and grants, to say, "Okay, we're going to take what last year was \$630 million that went to help students through financial assistance in attending schools and stretch that an extra 20% to get it up to \$800 million." We can do that and be able to get away with it, if in fact we make the system one more of loans.

You've referred to how now the system will leave people with a lifelong debt situation. I'd really argue with that, because what we've done is, I think, a creative switch-around. Although people won't get grants up front without getting a loan, there clearly is a cap. You can't go in debt by more than \$5,570 per year on a loan. After that, you do get grants. After that, for instance, if you've got a single parent with two children and they end up needing \$17,510 in a year, they will not go in debt by this government by more than that \$5,570; the rest is purely grant.

So I guess I'd like to put to you the question of, don't you really in your heart of hearts think that in fact this government is treating students far differently than either of the other parties would and that in fact it's not too unrealistic, given the situation, and certainly not warranting of being called neo-conservative?

I'm sorry. I guess the one last point I wanted to throw in there is that this is one of the—

The Chair: Is this a question?

Ms Swarbrick: Yes. Just within that is one of the very sobering things to me in changing my mind from the kind of position that you're taking, that when you are in a deficit financing situation, you end up that with every dollar in revenue we're taking in right now, even keeping the deficit to where it is now in spite of the threats that I mentioned, 12 cents of every one of those dollars has to go to pay for nothing but servicing the debt. It means that we're crippling ourselves from being able to pay for the services. I guess when I look at what that would be, if we let the debt go higher, it means we end up losing that money that we need for those services.

The Chair: Anne, come on.

Ms Swarbrick: Yes, sorry.

Mr Craft: As I understand your question, it was, do I not believe in my heart of hearts that this government is operating different than the other two if they were in government? The other two aren't in government. It's completely hypothetical. I can only speak about how this government has been operating.

Whether or not I think the moniker "neo-conservative" actually fits in there, I think that in the 1980s and 1990s there has been a neo-conservative agenda in North America that essentially says you must reduce and not borrow money, and I believe personally that's the way the government's behaving.

Ms Swarbrick: Would you say we're not borrowing money?

Mr Craft: If you want me to deal with the substance that was in there, not exactly the question, the part about the \$5,570 and the lifelong debt, the lifelong debt part, I was referring to the income-contingent repayment plan process that the minister has not announced the details for yet. I was making some assumptions over what possibly will be. The minister has looked at a number of models. They are all regressive and they all require borrowing money, paying off money for 15 to 20 years.

If the current debt load is \$5,570 per year, if one had to borrow that amount of money over a four-year degree, essentially an undergraduate degree, that would be over \$20,000. If somebody had to borrow it throughout doing a PhD—the average time to completion to do a PhD from start to finish in the social sciences or humanities in this province is about 10 years—you're talking about a debt of \$55,000 just for your post-secondary education. I think that's outrageous.

Ms Swarbrick: What difference does it make to earning capacity?

The Chair: I'm sorry. I'll go on to Mr Kwinter, and since we don't have television in here, Mr Phillips is holding up the Agenda for People.

Mr Kwinter: Mr Craft, if I could just lay the groundwork for the question I want to ask you, when the Treasurer of Ontario brought out his very first budget, he sort of touted the fact that he was doing something unique in that he was projecting what the cash requirements are going to be for the term of their mandate.

It showed fairly substantial deficits right through till 1995, somewhere in the neighbourhood of \$7 billion to \$8 billion even in 1995. On the basis of that, he felt that he was going to fight the recession not on the backs of the workers but that he would do it by running up greater deficits.

The Treasurer has admitted and even now members of the government side have said no one anticipated how bad the situation was going to be, which means that in fact those projections were quite modest compared to what is actually going to happen. What we have found—and there was a story about it; my colleague brought attention to it, as did our leader—is that this government has been offloading a lot of the things by user-pay.

They've been increasing fees all around, throughout the government and throughout the services that they provide to the citizens of Ontario. We've seen it in the educational field where tuition fees for post-secondary education have gone up 7%. They've virtually eliminated the grant program.

My question to you is this. This is a government that historically has promised that if it came to power, not only would it not increase education but it would eliminate the cost for education for university students. They've now made the decision where they've increased it and once they look at their problems, the chances are that they're going to increase it even more, because once you get on that slippery slope, it's very easy to say, "7% this year, 10% next year, and let's keep cutting back."

What is your reaction from the students out there and what do you feel the practical—I know the theoretical—result of that is going to be for the post-secondary student body of Ontario?

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Mr Craft: Of tuition increases?

Mr Kwinter: Further tuition increases and greater constraints on the availability of funding for post-secondary education.

Mr Craft: We've already seen some of the practical aspects of it. Two thousand positions in first-year university were cut in this province this year. Twenty thousand students were turned away from Humber College. You had a 20%

student unemployment rate this summer at the same time the students were expected to save more money in calculating their OSAP entitlements. You're going to see students unable to go to post-secondary education.

Fewer will go and those who are there will end up dropping out. We are already seeing more and more food banks springing up on our campuses. It's essentially going to lead to a point where only the wealthy in this province will have access to the post-secondary education system. That is what the reality of tuition increases and low funding will be.

To be fair to the current government, since 1978-79, every year whoever has been in power has increased tuition fees. There hasn't been movement by any party in this province to eliminate user fees for post-secondary education nor has there been a movement at the federal level. The federal government is a signatory to a 1976 United Nations convention to remove all impediments to post-secondary education including tuition fees. Instead, they're moving in exactly the opposite direction by freezing the escalator on EPF and not providing the provinces with the money they need in order for them to freeze tuition fees. I'm not going to blame it completely on any provincial government. The federal government has had its part in this too.

The Chair: It being 4:30, I'd like to thank you for coming before this committee. Safe travel home.

ONTARIO SCHOOL TRUSTEES' COUNCIL

The Chair: The next group we've got is the Ontario School Trustees' Council. Would you come forward, please. Do you have some other colleagues there? There are enough chairs there if you have someone else. Don't be shy. We're recording all this. Would you mind identifying yourselves for the purpose of Hansard? We have until 5 o'clock. Could you leave some time after your brief for questions from the committee.

Mrs Betty Moseley-Williams: My name is Betty Moseley-Williams. I'm the president of the Ontario School Trustees' Council and I'm the trustee in Nipissing. Patrick Meany is with me. He is a delegate or a member of the Ontario School Trustees' Council and he is a trustee with the Dufferin-Peel Roman Catholic Separate School Board.

The Ontario School Trustees' Council is an umbrella organization of school boards and their trustees which was established in 1953 by an act of the Ontario Legislature. Currently, the OSTC is composed of the French-language trustees and the Ontario Separate School Trustees' Association, which together represent more than 600,000 elementary and secondary school students within the province of Ontario. Almost 100,000 of these young people are French-language students.

The brief was prepared in two languages because we expected to have Lorraine Gandolfo speak for the French-language trustees. Lorraine was ill and unable to come.

We appreciate the invitation to appear before the committee at its annual pre-budget consultation hearings to bring recommendations on economic and fiscal policies and priorities. While we recognize that the amount of additional funding for education is not subject to negotiation, we would strongly recommend that steps be taken immediately to address the major areas of inequity within the present education funding model.

The Ontario School Trustees' Council appreciates that there are two major roles for the provincial government with

respect to elementary and secondary education. First, the provincial government must ensure that there are the necessary mandatory programs provided by local education authorities which meet provincially established standards and guidelines to ensure an appropriate educational experience for every student in Ontario.

Second, the provincial government must ensure equity of educational opportunity, that every school board has an equal financial ability to adequately fund these mandated programs to meet provincial standards so that all students are provided with equivalent services regardless of their language, race, religion, socioeconomic situation, geographic location or type of school board.

For the Franco-Ontarian community, equity is incomplete without its constitutional right to governance, which includes services equivalent to those offered the majority-language students and the appropriate financing to provide it.

Unfortunately, the provincial government is not fulfilling its second major role: the assurance of equity. This is apparent in the great differences in per-pupil spending by similar school boards in different geographic areas and by coterminous school boards in the same geographic area.

For example, in 1990 the Ottawa Board of Education, which is a public school board, was able to spend \$8,784 per secondary school pupil, while the Bruce County Board of Education, which is also a public school board, was only able to spend \$5,970 per secondary school pupil. Similar differences are found at the elementary school level.

The reason for this disparity is the differences in total per-pupil equalized assessment between the two public school boards, especially with respect to their commercial and industrial assessments. For instance, while the Ottawa Board of Education enjoys \$191,881 of commercial-industrial assessment per pupil, the Bruce County Board of Education has only \$18,987 of commercial-industrial assessment per pupil, less than one tenth as much. This is common across the province, and as the share of education costs falls, it is a situation which is becoming increasingly unfair.

Correspondingly, within the same geographic area, two boards can exhibit a similar divergence in spending. In Metropolitan Toronto, the public school board in 1990 was able to spend \$7,986 per secondary school pupil, while the coterminous separate school board was able to afford a per-pupil expenditure of \$5,947. At the elementary school level, the figures were \$6,108 and \$4,628 respectively.

Again, this immense disparity arose mainly from the great difference in commercial and industrial assessments of the two boards. The public school board enjoys \$238,269 of equalized commercial-industrial assessment per pupil, while the separate school board has only \$37,041 per pupil, less than one seventh as much as its coterminous board.

It is to be noted that some boards have to educate one third of the total student population on one seventh of the corporate-commercial assessment base. Since it is not politically feasible for coterminous boards to have significantly different mill rates, the separate school board is literally forced to spend less on its students. This is a recurring pattern across the province of Ontario and one that is contrary to the principle of educational equity.

These problems will not be solved by the provincial government increasing the total amount spent on elementary and secondary education by local or provincial taxpayers. However, they can be rectified if the provincial government ensures a more equitable distribution of tax revenues to school boards across the province. Since the major problems tend to arise from the imbalance in access to commercial and industrial assessment, the only practical solution is to redistribute the tax revenue generated by this commercial and industrial assessment.

While regional pooling of commercial and industrial assessments would resolve most of the disparities between coterminous boards, only a system of provincial pooling would address both of the problems identified above. Thus, the Ontario School Trustees' Council makes the following recommendation:

Recommendation 1: that the Ontario government establish a province-wide mill rate for commercial and industrial assessment for educational purposes; that the resulting commercial and industrial tax revenue be pooled; and that realistic grant ceilings, the levels of expenditure approved for provincial support, be established and supported by the pooled funds, provincial grants and residential tax revenues.

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Mr Patrick Meany: I'll be continuing from here. Had Lorraine Gandolfo been able to come, parts of this brief would have been in the French language, but my accent is not the best, and in any case, Betty says she has trouble enough with one of my accents, so I'll continue in English.

A fairer tax system: Currently, more than 60% of the total per-pupil expenditures for elementary and secondary education in the province of Ontario is funded by local property taxes. While commitments have been made to reduce the percentage of education costs borne by the local property tax base by increasing the provincial contributions, the increase in provincial grants has not been sufficient to compensate for an average 2% increase in enrolments along with increased costs of employee-related benefits and equity plans, without even considering the additional costs of new provincially mandated programs.

The Ontario School Trustees' Council recognizes that in these recessionary times it is difficult to find the necessary funds to honour such a commitment. However, recent economic indicators have signalled a beginning of slow growth and a climb out of the recession. With an improved economy and increased tax revenues, it will be possible for the provincial government to return to funding a greater share of educational expenditures at the elementary and secondary school levels. Therefore, the Ontario School Trustees' Council makes the following recommendation:

Recommendation 2: That the provincial government increase its share of education funding as its revenues increase in order to reduce pressure on the local property tax base.

Another inequity arises from the finding that there is no consistent relationship between the property taxes paid and ability to pay. In some areas in 1990, residential taxpayers paid out less than one seventh of one per cent of their household income for school taxes, while in other areas residential taxpayers paid out more than 1.5% of their household income for school taxes. In 1990, the average across the province was

1%. There's certainly a need for the introduction of a factor applied to residential assessment to recognize the ability to pay of the households being taxed. Thus the Ontario School Trustees' Council makes the following recommendation:

Recommendation 3: That the average household income for residential taxpayers be factored into an equalization formula for educational grant purposes.

Rebuilding our schools: The Ontario School Trustees' Council has been appreciative of the provincial government's five-year commitment to a \$300-million-per-year capital grant program. School boards have used the limited funds in the best possible way so that students can have access to healthy learning environments.

However, we have not been able to make significant inroads into renovating and replacing an aging infrastructure, much of which was built of inferior materials during the Second World War, or those buildings constructed to house the baby boom which occurred about 40 years ago, let alone address the replacement needs of schools built more than 50 years ago. Recognizing that the construction of public facilities has a very positive impact on economic growth, the Ontario School Trustees' Council makes the following recommendation:

Recommendation 4: That the provincial government continue its multi-year commitment of \$300 million per year in capital funding for school boards for new pupil places and school renovations, and that additional funds for school replacements be allocated from the provincial capital works programs as such programs are developed.

Mrs Moseley-Williams: The Ontario School Trustees' Council is very aware of the fiscal difficulties facing the provincial government, and thus has suggested methods of addressing significant inequities in the area of educational finance which recognize the limited resources available. However, the move to equity of educational opportunity for the students of this province will not require the expenditure of additional provincial funds, but could significantly decrease the pressure on the provincial purse by removing most of the financial inequities among school boards.

For the Franco-Ontarian community, equity of educational opportunity for francophone students can only be achieved through complete governance.

We would challenge this committee to make the case for equity on behalf of the elementary and secondary school students of the province of Ontario. In this regard, the Ontario School Trustees' Council offers its full cooperation and its entire support.

We would be pleased to discuss our recommendations, which are listed in the back, and we distributed to you the figures we were using, which are from the report of the Fair Tax Commission from December. I think each of the members received a copy of those also.

The Chair: Mr Phillips to start it off.

Mr Phillips: I appreciate the brief. The issue of capital: I'm sceptical, or cynical perhaps, about some of the government's plans for setting up capital corporations. I have my own view of them, but be that as it may, one of the things that I think the government's planning to do is a fairly different approach to capital expenditures for schools. I think they've asked for feedback from the school boards on that.

I'm not exactly sure how it's planned to work, but I gather the plan would be to allow a school board to build a school they authorize, but the board would be allowed to issue a debenture and the province would then reimburse the board on an annual basis for the debenture costs it would have paid for. So it may be a way of getting debt on your books and off the provincial books. Has the school trustees' group looked at that and have you a view on whether you support the idea of the capital funding that way or not?

Mrs Moseley-Williams: Because we represent boards that are very diverse, some of the boards that can afford to do the debenturing favour that method of funding, but we couldn't put in a solid position because the boards are split in the province. I think I speak for most of the trustees' associations. There is not an agreement that this method would work, and for my own board, I know it said no and it was just very clear. They did not think that would work for us.

Mr Phillips: I would appreciate, for the committee, some of the responses you may have provided on that, because I think this is going to be a huge issue in this upcoming budget, the way capital is funded.

Mr Meany: If I may, I've noticed varying degrees of nervousness among individual trustees based on a fear that they might get tied into something and then left with it at a later period.

In my own board, as distinct from Betty's, there was much of that kind of question, but I think the ending consensus in the discussion was that we have the kids pouring in; we don't have the schools; we will take whatever comes and deal with it the best we can. We must get the kids into buildings.

Mr Phillips: As I say, it would be useful for the committee if the association might forward its comments.

The Chair: If you wouldn't mind forwarding them to the clerk, we can distribute them to all the members.

Mr Phillips: I think it will be one of the big issues we'll want to debate here at the committee, these capital corporations.

Mr Meany: If I might add a word on that, from our own board the thought was that anything like this perhaps might come in legislation; that is, the guarantee of payment reimbursement. As you said, Mr Phillips, it would be legislative rather than regulatory, so it would be built in. There will be no fear that, say, changes in minister or whatever could result in an adjustment, leaving it back on a board which was unable to pay.

Mr Phillips: Yes. All those are useful comments, I think, for our committee.

The Chair: You have a bit more time, Mr Phillips.

Mr Phillips: That was my major question. The rest of the brief I think is—

Mrs Moseley-Williams: We will send them.

Mr Phillips: Thank you.

The Chair: If you think of some more, I'll come back to you.

Mr Carr: Thank you very much for your presentation. One of the questions I had was regarding the funding issue. I mentioned this morning, with the trustees who were in, that the problem we've got is that looking down at—I used

Halton's public board as an example, because we got the figures today where the teachers got a 2% increase and the year they got that, when it was negotiated, they thought they were going to have an equivalent increase from the government and they now get zero.

The problem is that in the Halton area now the school boards are having an open budget process and they're getting a tremendous amount of heat from people, because people know where most of their property tax dollars are going and I think that's something new.

Could you tell me what your perception is from the public regarding the cost on the property taxpayers? What are they saying to the trustees of this province about what's happening to them as taxpayers from a property standpoint?

1650

Mrs Moseley-Williams: I suspect the answer is the same throughout the province, but in some areas it's very specific that an increase in the local tax rate will not be tolerated. I think boards are committed to keep the tax rate as close to the last year's level as they can. However, realistically there are costs that—some of them are contract demands and some of them are just the costs that you can't control. But I think the general feeling that is coming to boards in the province is that they are to hold the line on their property tax. People feel they cannot afford to pay any more. Many of us are in areas, and I know some of you are, where the unemployment—you know you cannot ask for more tax money.

Boards have looked at their staffing. They have redistributed to try and get a better use for their dollar, but this year's budgeting process, be it open or closed—and I think most boards are involving their community and their staff—is a tough process.

Mr Carr: One of the problems is that with a 0% increase—we talked today about what percentage is employee salary. I think the mistake I made in speaking with the teachers is that the overall total board salary is 80%. Not all are teachers, and they were arguing that bigger and bigger percentages are not teachers, but the fact remains, using the Halton board, that 80% of the costs are salaries. The problem is that arbitrators are giving them increases and you're getting zero from the province.

One of the things that has been suggested is that the province can step in, whether it be municipal workers, teachers or any of the employees, and say, "I'm sorry, with the tough economic times, we couldn't give the school boards, the municipalities or the universities as much as we wanted, but we are going to introduce legislation that is now going to tie your salaries to the transfer percentage," which would be zero.

That would take the onus off school boards, because the provincial government would do it. I know politically it's very difficult to do, because when you do that every teacher in the province says, "Cut somebody else but not me," and the same with municipal workers. Are you in favour of the province doing that so that for the costs that do go up, and if the property tax owners do come to you, it will be in effect you that has increased the costs rather than the province? Would you like to see the province do that?

Mrs Moseley-Williams: To go to a wage control?

Mr Carr: So they cap it. Since they're giving you zero, they would cap it at zero for teachers and employees and staff.

Mrs Moseley-Williams: I think we're going to give our opinions from our areas, because it's not a provincial statement. At the conferences where salaries have been discussed, certainly the reference is generally made to when the Anti-Inflation Board was in place. I'm not going to say it's easier, because all it does is change the directions negotiations go: If you're not talking money, you're talking everything. It still is complex, but I would support it until the time this recession turns.

Mr Carr: A lot of trustees will tell me that privately; I'll let you answer too. For example, my board won't come out and say that. They say, "We really don't want to antagonize the provincial government, because we need capital funding." Individually they say that's great, that that's what should be done, but nobody comes out with a clear statement. It's almost as if they're afraid of saying that to the provincial government or to upset the teachers. You basically just told me you had to tell me individually, because I gather you can't get a consensus from your organization. I'm just wondering why people are fearful of saying this. Is it that they fear it will ruin their relationship with teachers? Or why the reluctance on the part of trustees and so on not to come forward with this idea?

Mr Meany: It is seen as interfering with a system of negotiation put together with great difficulty; of course, those with interest in maintaining the present system would say that with more fervour. I think we would all agree that Bill 100, as it is called, has been of great benefit. Mind you, we've lived with it mostly in good times. I do think there's some looking at that bill within the ministry at least, but it's very difficult, because you have differing interests.

I would agree with Betty, again speaking for myself, that some short-term control on the public service is feasible. Introducing cost controls in the form of wage control across the economy I think is a dangerous and difficult thing, and it leads to under-the-table payments and various ways of getting around it in the private sector. But if it's among those who are paid by government funds, it's easier to control but politically difficult. On that last point, however, I think we may have reached a stage where the majority of the population would agree that public servants ought to come under constraints such as the majority have been forced to bear under supply and demand and the unbridled effects of a bad economy. If you happen to be a public servant, there's protection that ordinary people don't have, so they are looking askance at even small raises given to public servants. I'm not sure if I've answered everything.

Ms Harrington: I think you've made some very clear points here, even dramatic points, about the problem of inequality in funding and the whole question of funding. As you were saying, the Fair Tax Commission is looking at it, and I gather that you agree with some of the things it has come out with.

Regarding the other organizations that are also involved in changing the structure of the funding of education, have you reached some kind of agreement with the recommendations you propose here, for instance, the first recommendation

to pool the commercial and industrial tax revenue and these types of things? Is there broad agreement to the direction you are taking here?

As you've already said, this is politically difficult, and it's much easier to make any real substantial change in anything in this province if there is a broad consensus and if people out there in the public understand why it's being done and that it will be of benefit to them. I agree with your point that the municipal tax base on your property assessment is certainly not a fair way to go. This party, as Mr Phillips will tell you, historically has said that many times: that education should be much more evenly and equitably paid for. Can you answer some of my questions?

Mrs Moseley-Williams: First, you asked if we agreed with the Fair Tax Commission report. We took the figures for our brief because they very clearly demonstrate inequities that are there. There are inequities between all parts within the whole province. It doesn't matter which school system you're talking about, be it public or separate or within the French-language schools. I'm not saying we have looked at the Fair Tax Commission report and agreed with it. We took the figures because those are the figures that we have stated are there, and now they have affirmed that.

Whether all the associations of trustees and all the education associations would agree with what we are saying with respect to commercial and industrial tax revenue, I don't think you're going to have a common agreement across the province. If you were in a situation where you had the availability of \$2,000 or \$3,000 per pupil, "We'll find equity in a different way," might be what somebody would say. What we're saying is that there isn't another way.

You have small boards outside of these large areas of the province—I told Patrick today that one of the differences was that up north we have snowplows when this kind of day happens. Anyway, what you have are schools—you just know that two boards came together because they were going bankrupt. That's a terrible statement. That's not equity for anybody. You have school boards where children do not have full sets of textbooks because they don't have the money, yet you have others where they have not only lovely libraries but full centres of everything. So they won't agree. There's not going to be total agreement on that, no.

1700

Ms Harrington: My point is that your solutions sound good, but there's no way we can implement them unless we form alliances, work together, build together and other people come to these conclusions as well. I'm asking, how close are we to that? Are you working together?

Mrs Moseley-Williams: I'm going to answer part of that and then Patrick. In the Fair Tax Commission report, as you know, there is a minority report in from part of that committee that said the matter of equity is not coming out of it. I don't know how you're going to form those alliances, if you're speaking about you as the government. Our challenge is that you have to find a way to do it, because it's not good to say, "If you can't form an alliance, we can't have this kind of equity." To us, equity should be for the students and the taxpayers and it shouldn't be for the rest of us to be comfortable with it.

Mr Meany: Really an expansion of the same thing: In all cases of institutionalized inequality, it's unreasonable to expect that those who benefit are going to agree. If one went to a grandee of France in 1785 and said, "We'd like you to redistribute some of your revenues," you would get unwillingness, but come back five or six years later and the situation would have softened a little. I'm giving an extreme case. In fairness, to my personal knowledge there are those among those who benefit who recognize the situation. The bottom line is that whether students are from east or west of Ontario, north or south, French-speaking or English-speaking, there should be equality between these students. There is recognition among some people on the other side of that spectrum, but on the whole, it's not reasonable to expect that people will agree to take away a piece of their land and divide it up among the others.

The Chair: Mr Phillips, do you have a short one? We have about one minute left.

Mr Phillips: You have given us four recommendations. One is to take the existing property tax that's raised and redistribute it around the province. The second one is to have other revenue sources pick up an increasing share of education costs, and property tax would decrease, I'm sure. Right? Take the property tax share down and find other revenue. Do you have any suggestions for us on where that increased revenue might come from?

Mr Meany: I think Betty's probably going to say. We do build it in here, recognizing that we're in bad times now, but we already know our foot is on the ladder on the way out and now would be the time to start working on it.

Mr Phillips: Not much change now, but a plan to do it over time, is that it?

Mr Meany: To be realistic.

Mrs Moseley-Williams: When you're asking for a dramatic change in anything, there is some sense of realism; you know it's not going to happen. But for where I live in the province, we feel that when the government subsidizes any kind of corporation or commercial entity or direction, it probably affects every taxpayer in Ontario, so we feel that the positive effect should be felt by every taxpayer in Ontario. It takes a hard look at it to say that we're going to say that a kid in Kapuskasing has the same rights and privileges and right to equity as a child in Metropolitan Toronto, the Ottawa boards or London, and it doesn't happen. We're asking you to address that.

The Chair: I'd like to make a comment. We have Earle McCabe from the Ontario Separate School Trustees' Association sitting in the audience; I just want to recognize him. I was a little leery because Mary Hendriks from down in my area usually comes before this committee. I just checked, and you were taking your turn this year and that's why Mary's not here. I just wanted to check. I said, "We forgot somebody."

Ms Harrington: You just wanted to get her name on the record.

The Chair: It's a pleasure to have you here today. Have a safe trip home.

Mrs Moseley-Williams: Thank you very much for having us.

The Chair: To the committee, we'll adjourn until 9:30 am tomorrow, when the first group we'll have up is the Federation of Women Teachers' Associations of Ontario. See you then. This committee is adjourned until 9:30.

The committee adjourned at 1706.

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Cooper, Mike (Kitchener-Wilmot ND) for Mr Sutherland

Harrington, Margaret H. (Niagara Falls ND) for Mr Wiseman

Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Mr Christopherson

Mammoliti, George (Yorkview ND) for Mr Jamison

Swarbrick, Anne (Scarborough West/-Ouest ND) for Ms Ward

Also taking part / Autres participants et participantes:

Sutherland, Kimble (Oxford ND)

Wilson, Jim (Simcoe West/-Ouest PC)

Clerk / Greffière: Grannum, Tonia

Clerk pro tem / Greffière par intérim: Freedman, Lisa

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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- Vice-Chair / Vice-Président:** Sutherland, Kimble (Oxford ND)
- Caplan, Elinor (Oriole L)
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- *Sterling, Norman W. (Carleton PC)
- *Ward, Brad (Brantford ND)
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- Wiseman, Jim (Durham West/-Ouest ND)

*In attendance / présents

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ISSN 1180-4386

Legislative Assembly of Ontario

Second Intersession, 35th Parliament

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Official Report of Debates (Hansard)

Thursday 14 January 1993



Journal des débats (Hansard)

Jeudi 14 janvier 1993

**Standing committee on
finance and economic affairs**

Pre-budget consultations

**Comité permanent des finances
et des affaires économiques**

Consultations prébudgétaires

Chair: Ron Hansen
Clerk: Tonia Grannum

Président : Ron Hansen
Greffière : Tonia Grannum



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Monday 11 January 1993

The committee met in closed session in room 151.

1406

WORKERS' COMPENSATION BOARD

The Vice-Chair (Mr Joseph Cordiano): Ladies and gentlemen, I'd like to call the meeting of the public accounts committee to order. We have before us representatives from the Workers' Compensation Board to help us with our discussions today. I would like to welcome you all to our committee and I ask that each of you identify yourselves for the record.

Mr Brian King: My name is Brian King. I am vice-chair of administration of the Workers' Compensation Board. With me is Linda Angove, secretary to the board and the project manager for the facility strategy; Glenn Cooper, the chief financial officer of the Ontario Workers' Compensation Board; and Vivian Varnam, the project controller of the facility strategy.

The Vice-Chair: Welcome. I think it's best if we proceed with any briefing material you may have for us and then allow a period of time for questions after that briefing session. If you'd like to start, I give you the floor.

Mr King: Ms Angove has a brief presentation on the background to the facility strategy.

Ms Linda Angove: This afternoon we'd like to talk about some of the key issues that have been of interest to various groups regarding the head office relocation for Workers' Compensation. Specifically, we're going to deal with our rationale for relocation from 2 Bloor Street East.

Mr Noel Duignan (Halton North): Point of order: Sorry to interrupt; I just can't see the screen because the projector is right in the middle.

The Vice-Chair: Is there any way that we can amplify visibility here?

Ms Angove: I have copies of the overheads. I have additional copies now, if you'd like.

The Vice-Chair: Yes, would you please circulate those, Tannis? Just hand those around.

Ms Angove: We're going to talk about the process for the various aspects of the project to obtain approval from our board of directors: why no existing facility can accommodate the Workers' Compensation Board, the cost implications of this transaction for both the tenant and the investment fund, the benefits of a design-build facility, the service delivery impacts and the potential for efficiency gains. In addition, of course, we'll answer any questions you may have regarding the project throughout.

In early 1990 we took a look at some of the problems we were experiencing at 2 Bloor Street East, because we recognized the fact that our lease there was coming due in mid-1990 and we appreciated the fact that if we were going to relocate, it would take some time to plan that relocation,

particularly if it involved a relocation to a facility that required a design-build approach.

Some of the factors that contributed to the decision to relocate included the identification of a number of deficiencies, and some of the key deficiencies are listed here for you. They include inadequate elevator capacity that results in very expensive delays for us; inadequate cabling systems, resulting in excessive downtime for our workstation technological equipment and unnecessary cost with internal staff moves with the relocation of these workstations; inadequate floor-plate size, preventing work groups that need to work together from locating on the same floor; inefficient mechanical and electrical systems; lack of emergency power and, actually, the inability of that building to accommodate emergency power, which results in the loss of data and expensive downtime with power interruptions; inappropriate lighting system, which contributes to a high incidence of headaches and eyestrain for our VDT users; and inadequate shipping and receiving facilities.

Mr David Tilson (Dufferin-Peel): Excuse me, Mr Chairman. Speaking of inappropriate lighting, now that we have this material before us, I wonder if we could have the lights back on.

The Vice-Chair: I'll refer that difficult question to the clerk.

Mr Tilson: There we are. Thank you.

Ms Angove: In addition to those deficiencies, we have major problems in accessibility for people with disabilities that include inadequate proximity to parking for mobility-impaired clients that requires them to walk quite a lengthy distance from the closest parking spot to the WCB premises and unacceptable access for persons with disabilities, particularly people who use wheelchairs. Today, someone who parks at 2 Bloor Street East or in the closest parking-lot to 2 Bloor, which is the hotel next door or the Hudson's Bay, is required to take three elevators, one of which is the freight elevator, and he or she must go through the garbage area to get to our premises. We feel that is unacceptable.

With that, we presented to the board of directors in July 1990 a presentation that recommended that we relocate the WCB head office, and it authorized us to conduct an investigation of alternative sites. In the fall of 1990 we tendered and we advertised in the Globe and Mail and the Financial Post. We received 75 inquiries from interested parties and 34 submissions for both existing and new facilities.

Those submissions were subsequently evaluated through extensive criteria for the user, the tenant and the investment sides of the transaction, and we shortlisted down to 13 sites, of which nine were design-build and four were existing facilities. We then went to the board of directors in December 1990 with a short list of four. All of those included design-build options, because we determined that no existing facility

can accommodate our requirements. I'll speak about that in a little more detail later.

In February 1991 the board of directors authorized the administration to negotiate an agreement with the proponents of Simcoe Place. Simcoe Place was determined to be the most appropriate site to meet all of our technical requirements, all of our user requirements, our investment criteria, and it was the most advanced project submitted in terms of municipal approvals.

In April 1991 the board ratified the lease letter agreement and authorized the administration to negotiate all related documentation related to that agreement. In April 1992 the board of directors authorized the WCB administrators to execute the documentation to finalize the transaction with the proponents of Simcoe Place.

I want to talk a little bit about why existing facilities cannot accommodate the WCB. You will note that many of them are the same reasons why 2 Bloor Street East cannot accommodate WCB. Specifically, existing facilities are not designed to accommodate a high-density user of space like the WCB; they're designed for speculative office tenants who use much more space than we do per person. We basically put twice as many people on a floor as a typical office tenant. So consequently, as a result, existing facilities do not have sufficient elevator capacity to accommodate not only our staff but over 100,000 visitors to WCB's offices every year. In fact, in 1991 we had 153,000 injured workers visit our premises, and that contributes to tremendous delays for us.

There are inadequate cabling systems in typical office buildings to accommodate our technical requirements. We have the largest imaging installation in North America. As a result, it puts a tremendous strain on the cabling system in any facility, and typical office buildings are just not designed to accommodate that.

Mr Gregory S. Sorbara (York Centre): I'm sorry, what did you say? The largest what?

Ms Angove: Imaging. Much of our claims adjudication work is now done through imaging, so we don't use a paper file. All of the information is on the technological system, on the screen, basically. So when that screen goes down, it means the adjudicators cannot perform their jobs. Delays of any kind are very costly to us, not only financially but in terms of service delivery impacts.

The other problems with existing office facilities is that they have inadequate mechanical and electrical systems. Again, related to the number of staff and the kind of technology we use at WCB, they have inadequate structural loading. Because of the types of functions we have on certain floors, we have to add structural loading. For instance, our mass mailing area requires extra loading on the floor.

The other big problem with existing facilities is that they lack sufficient contiguous space for the operations, so that staff cannot work in close proximity. You will have heard that there are over 20 million square feet of vacant office space in downtown Toronto today and why can't WCB utilize that space. It's quite simple: There is no contiguous space that can accommodate the WCB's requirement.

Today, one would be lucky to find 100,000 square feet of contiguous space. We're looking for 500,000 square feet of

contiguous space, and it's simply not available. The space you hear about today is quite suitable for a small tenant—20,000, 30,000, 40,000 square feet—but you need to appreciate that it's spread all over the place; it is not contiguous. As soon as we lose contiguous space, it costs us money.

The Vice-Chair: Just on a point of clarification, if I may: By "contiguous space" you mean space that is adjacent to each other?

Ms Angove: That's right.

Mrs Margaret Marland (Mississauga South): Adjacent floors.

Ms Angove: Adjacent floors, right.

Mr Sorbara: All in one building.

Ms Angove: All in one building, adjacent floors all in one building.

The other problem we have in most facilities is inadequate floorplate size. There are some downtown office towers that do have floorplates of about 25,000 square feet, which is the minimum we're looking for, but most of them don't. That is a problem with many existing facilities, and it's certainly a problem for us here at 2 Bloor.

The Vice-Chair: Floorplate?

Ms Angove: The size of the floor, the perimeter of the floor.

The Vice-Chair: On a single floor.

Ms Angove: That's right. The reason we need large floorplates is to allow staff who need to work together on the same floor to be located on the same floor. As it is today, staff must run between floors, because we can't put everyone who needs to work together on the same floor. Of course, that aggravates the elevator problem and it means people are away from their workstations and are not doing the work. They're running between floors.

Mrs Marland: Excuse me. I would like some clarification for the same reason you did, Mr Chair.

You talked about the use of the electronics. Is it not with the electronic communications plus telephones? I guess I'm a bit confused about why you need all this space on one floor. I mean, are they really getting up and running from their VDTs to talk to each other on other floors?

Mr King: For some time the Workers' Compensation Board of Ontario has had complaints about service delivery: delays, inability to respond to the needs of the customers. In an attempt to respond to those demands for service, the board has broken itself down into 20 smaller compensation boards. About half of those compensation boards are in regional offices. If you go to Thunder Bay, Windsor, Sudbury, Hamilton or Ottawa you will find a compensation board complete unto itself except for some of the central support services that are required to do business.

The need for a large floorplate is so we can have one of our business operations in one cohesive area for all the efficiencies that creates, the rather unmeasurable one being morale, which is very difficult to maintain in an operation of 5,000. Morale affects service delivery, the communication that has to exist so that files don't end up being lost. That causes problems for ourselves and for yourselves as MPPs,

who are often the first in line for complaints, so it's really business need requirements.

Mrs Marland: You did say the files are all done on computers.

Mr King: The majority of our files are now on what is called imaging technology, which is electronic files. They can be reproduced on electronic screens.

1420

The Vice-Chair: Might I suggest we just carry on with the briefing session, and apart from points of clarification, we'll ask questions after the entire briefing is over. I think that's probably the most efficient way to proceed.

Ms Angove: If I could just add, the other point is that not all of our business is handled through technology. Certainly all of the claims files are on technological systems, but much of the business is also not on technology and is handled through staff meeting together and working through issues. For instance, policy development would be an area.

Some of the additional costs for WCB in relation to occupying space that cannot support the operation: These are costs that we incur currently at 2 Bloor Street East and we would incur if we were relocated to a facility that could not support the operation, a typical office tower downtown.

Elevator waiting time as a system was not designed to accommodate staff and visitor demand. We have determined through traffic consultants that the time spent waiting for elevators at 2 Bloor Street East is about one hour per employee per week longer than it will be at Simcoe Place. That equates to approximately \$6 million and the equivalent of about 100 staff. I will talk a little bit later about what that impact is on service delivery.

The other major cost to us is equipment downtime due to power interruptions and problems with the cabling system. There's also a cost associated with downtime because it damages the equipment as well, so there's a need to replace equipment more when it has been down several times.

Workstation relocation is common at WCB because of the size of the organization. Currently, it costs us either to have the equipment down during the day while we are relocating the workstation, or we pay overtime to have it done at night. It takes us a couple of hours to poke cables through the ceiling. That is something we wanted to rectify at the new facility and we did that through something called access flooring, which I will be talking about later, which basically eliminates those costs.

Other costs include additional equipment and resources as a result of the limited floorplate size. Brian mentioned the loss of economies of scale when you have to have people separated and working on different floors. The more floors you occupy, obviously the more support staff you need and the more equipment you need in the way of faxes, printers, photocopiers etc. Larger floorplates allow us to economize on equipment, staff and resources basically.

In addition, because of the lighting problems that we have at 2 Bloor Street East, we have a major problem with glare on our video display terminal screens that contributes to absenteeism. Research has shown that the glare resulting from lighting on VDT screens contributes highly to absenteeism

for VDT users. It's a major problem for us that we again want to rectify in the relocation.

I'd like to talk a little bit about the cost implications of the relocation. From an investment standpoint, the transaction does meet our investment criteria for the investment fund and will provide a favourable return.

From the tenant perspective, basically there's a redistribution of the administrative budget. The net rent per square foot at Simcoe Place will be comparable to the net rent per square foot with our lease commitments at 2 Bloor Street East. In our last year at 2 Bloor, we will be paying \$26 per square foot. At Simcoe Place, the current rate based on our latest estimates in the latest financing proposal is approximately \$26.90 per square foot. With the parking revenue offset, that is reduced to \$25.22 per square foot. So in fact in our first year in Simcoe Place, our effective net rent will be less than our last year at 2 Bloor Street East.

Mrs Marland: Could you just give us those figures?

Ms Angove: Certainly. We will be paying \$26 per square foot in our last year at 2 Bloor Street East. The net rent at Simcoe Place, which will be fixed for 20 years, will be \$26.90, and that will be offset by our pro rata share of parking revenues, bringing the effective net rent down to \$25.22 in the year 1995. By the year 2015, because those parking revenues will increase, the effective net rent will be reduced to \$23.67, so in fact our net rent goes down over the 20-year term as a result of the revenues from the parking.

Mr Sorbara: You mentioned the last year of renting 2 Bloor Street East, which is when?

Ms Angove: In 1995, the year that we're moving.

Mr Sorbara: Who's the owner of the building?

Ms Angove: Bramalea and Canaplan.

I mentioned that the net rent is fixed for 20 years and offset by parking revenues. The other point to make is that the operating costs at Simcoe Place will be comparable to the operating costs we are incurring at 2 Bloor. In fact they may be slightly less because of the energy-efficient systems that we will have at Simcoe Place. There will be an increase in overall space leased at Simcoe Place, and that is offset by the reduction in costs associated with the building systems.

I would like to point out that the board of directors requested that we increase average workspace per person because they recognize the problems we are having at 2 Bloor with the cramming of people in the current space. So we have increased the space per person for non-management staff only. I do have a slide on that which we can talk about later if you like. That increase puts us at the very low end of average workspace per person compared to other government organizations and other industries.

Mrs Marland: What is low?

Ms Angove: It's an average workspace per person. The individual workspace is 35 to 55 square feet per person; that's the individual workspace. The average workspace per person, which means the overall workspace divided by the number of staff, is 150 square feet per person. The average for most government institutions is about 220 square feet per person. That does not mean that each person gets 220 square feet or 150 square feet. It means your workstation plus your share of

common areas, meeting rooms, aisle space etc. It means that your allocation is approximately 150.

The Vice-Chair: Mr Callahan had a point.

Mr Robert V. Callahan (Brampton South): No, I'm prepared to wait. I was just putting up my hand.

Ms Angove: The overall impact of the cost implications as a result of this transaction is that there will be no impact on employer assessment rates and no impact on the unfunded liability. In fact there is a potential for net savings for the WCB over time. You can see that with the net rent alone. Our net rent goes down over time to quite a bit less than what it is at 2 Bloor.

Mr Sorbara: Just a point of clarification on this page. You mentioned, if I could look at Margaret's notes, the first year of rent in Simcoe Place, which is what?

Ms Angove: The net rent before the parking offset is \$26.90. With the parking offset—

Mr Sorbara: That's a little bit more than your last year of rent with Bramalea.

Ms Angove: Not with the parking offset. With the parking offset, it comes down to \$25.22.

Mr Sorbara: Could you tell the committee what offer you have had, what you would be able to renew your lease at 2 Bloor Street East for?

The Vice-Chair: The questions, I think, we can leave till after the briefing.

Mr Sorbara: Mr Chairman, with respect, this is an important comparison because the suggestion was made on this page that the rent in the last year of the current lease would be about the same as the first year in the new lease, but the reality of the marketplace in the greater Toronto area is that the first year of a new lease at 2 Bloor Street East would probably be a net rent of zero dollars per square foot. I think that should be included on this page with those figures that were submitted to the committee.

Ms Angove: We have not had—

Mr Sorbara: If I may ask—

The Vice-Chair: Order, please. That, I think, would flow as a discussion that can be following up on the briefing session, so I think I would allow that question to be asked once the briefing is over. Otherwise, we're going to get all kinds of questions. Unless the committee wishes me to proceed in that fashion, I think we'll go forward.

Mrs Marland: No, we'll do the briefing first.

The Vice-Chair: Okay, fine. We'll hold the question that Mr Sorbara asked on reserve and you can answer that following the briefing.

Ms Angove: We'd be happy to address that.

By participating in a design-build option, we've been able to ensure that all the deficiencies that we incur at 2 Bloor Street East and all the costs associated with those deficiencies that contribute to occupancy costs are eliminated. So what we've done in the design-build for Simcoe Place is to add a bank of elevators. There are three podium floors at Simcoe Place. These are large double floors and they have their own separate bank of elevators. They will have three additional

elevators, which, as I mentioned earlier, will obviously reduce the waiting time for elevators significantly.

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I mentioned that we've added a third podium floor. That allows us to put two integrated service units on the same floor, allowing us to share interview, reception and waiting space as well as to economize with the sharing of support staff, equipment etc.

We've added access floors to house our voice and data cabling. I mentioned earlier the problems we have with pulling cables through the ceiling. With access floor—this is a six-inch subfloor—all the cables are housed below the floor. If you relocate a work station, it's like unplugging a lamp and plugging back in. There's no downtime at all associated with it.

The other aspect of access floor is that we currently have a safety problem at 2 Bloor with the number of cables on the floor. Particularly when you jam a lot of people close together, there's a lot of cabling that creates unsafe work conditions. With access floor, all the cabling is housed below the floor, so that eliminates that problem.

Mr Sorbara: Couldn't be worse than it is in this building.

Ms Angove: I haven't been through this building.

Mr Sorbara: Just have a look. All the walls are alive with cables everywhere, some new, some old, some active, some inactive.

Mr Callahan: Maybe we should build a new building.

Mr King: Perhaps the Workplace Health and Safety Agency should come in and check it out.

Ms Angove: Perhaps we could lease you some space.

The other thing we've been able to do is change the base building lighting system that was originally incorporated in the design of this facility. We have found a lighting system that not only eliminates glare on the VDT screen but is quite energy-efficient, to the point where we need half the number of light fixtures that you would in the original base building system. So that will contribute to a reduction in our operating cost.

We've been able to add structural loading where required. We've been able to add washrooms in the high-client-use areas, which is a problem at 2 Bloor as well that I didn't mention earlier.

We've been able to add specific services in the lobby so that if an injured worker comes in and doesn't have a claim number, doesn't know where to go, he can get immediate service in the lobby. That's part of our commitment to improving service delivery for injured workers and employers, and employers will be able to obtain basic services in the lobby as well.

The other thing we've been able to do is add our own diesel generator at Simcoe Place to give us the emergency power that we need to eliminate the problems that are caused as a result of power interruptions and also to extend the life of our equipment.

A final benefit that we have with relocating to a facility that has been designed to accommodate our requirements is the potential for additional efficiency gains. We've been working with a productivity consultant, an individual who has done work in productivity for the past 20 years. He specializes in productivity in the workplace. He is helping us

now look at the more basic areas of design of the workplace to ensure that all the decisions we make about designing the workplace for WCB will be made with the productivity factor in mind.

He says that if you did everything right, if you provided a very supportive work environment, the dollar value of the benefits could be up to 5% of annual salary for workers in all job categories. For us, that equates to \$3.2 million to \$7.9 million annually that one can appreciate the benefits of if the workplace is designed properly to support productivity and to support the operation.

That ends the briefing. I do have additional information on various subjects, but perhaps you'd like to go to questions.

The Vice-Chair: Okay, we'll open it up to questions.

Mr Tilson: Mr Chairman, on a point of order—

The Vice-Chair: I'm sorry. We're going to go to questions. Mr Tilson, do you have a point of clarification?

Mr Tilson: I'm just concerned about the procedure that you're going to follow. Are you going to allow a time limit for each of the three parties or are you going to just let someone start and spend the rest of the—

The Vice-Chair: Well, we can proceed in that fashion, if you like. I think we have ample time left to us to just allow each of the parties on a rotating basis a question each. We can see how far we go with that and then I'll try to divide the time as we see fit. There's at least an hour and a half left to us, so I think—

Interjection: And tomorrow morning.

The Vice-Chair: —and tomorrow morning, so I think we can proceed on that basis. Mr Duignan.

Mr Duignan: On the same point, I think it may be fair at this point just to allocate a half-hour to each party on a rotating basis, and if there's any extra time after that, then take it on an individual question basis.

The Vice-Chair: Does everyone agree to that? Okay, then we can proceed with the Liberals first, then the Conservatives and then the government. We will have approximately a half-hour, which will bring us to 5 past 3 for the Liberals, and then the Conservatives can take over from there; following that, the government will have its turn. Is that okay? I'll allow Mr Callahan to go first.

Mr Callahan: I'd like to get a handle on a few details. What's the total square footage of this proposed building?

Mr King: The total square footage of Simcoe Place is 700,000 square feet.

Ms Angove: It's 755,000.

Mr Callahan: And you're going to occupy how much of it?

Ms Angove: Seventy per cent of it, 525,000.

Mr Callahan: I noticed that TVO had plans to build and a couple of others in the private sector: Blue Cross, the Ontario Hospital Association and Revenue Canada. Were there any discussions with any of these people about joining in this endeavour?

Ms Angove: No, there were not, but I do understand that the developer responded to a proposal call from TVO—I don't know about the others, whether they responded to those

or not—where they would put forth a submission to sublease remaining space, but the WCB did not enter into any discussions with any of those organizations.

Mr Callahan: This is a done deal, I gather.

Ms Angove: Yes, it is.

Mr Callahan: When was the contract signed?

Ms Angove: It depends what aspect of the contract you're talking about.

Mr Callahan: We know the board of directors decided on this in March 1991. When was the actual contract—

Ms Angove: All the transaction was executed in June 1992.

Mr Callahan: You've indicated that before doing that you put out for proposals and received 75 proposals from various owners of premises.

Ms Angove: I'm sorry; it was 75 inquiries, 34 submissions.

Mr Callahan: You were looking for a specific type of accommodation. Do you not think it would have been wiser to have had a real estate agent or agents go out and try to locate these for you specifically?

Ms Angove: We felt it was important to follow a public tender to be able to ensure that everyone had an opportunity to submit his proposal rather than approaching specific developers regarding specific sites. We were committed to following a public tender process. We did have the assistance of Royal LePage Real Estate consulting services during that tender process to help us evaluate the submissions.

Mr Callahan: You're saying that out of 34 proposals you weren't able to find one that fit the criteria?

Ms Angove: That's right.

Mr Callahan: I see. Now, how is this going to be funded?

Ms Angove: The financing proposal is currently under discussion.

Mr King: The funding for the building is presently being worked on. It is too early at the present time to give the final indication of how the funding will break down in detail. We have received a proposal, we have responded to the proposal and we haven't received a counter-response at the present time. Let me indicate that it will involve some equity from the WCB's investment fund and it will involve some mortgage.

Ms Angove: If I could just add to that, there's one point I did not mention when I was talking about our rent as tenant. The rent really does two things for us at Simcoe Place: It not only covers our occupancy cost as a tenant, but it also subsidizes the investment side of the transaction. It does double duty, if you will, unlike our current situation, where we pay rent to a third-party owner, Bramalea and Canapen, and we don't see that money again. In this transaction, the rent not only covers our tenancy, but it also subsidizes the investment for the investment fund. I think that's an important difference between any lease situation and the current transaction we've negotiated.

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Mr Callahan: I think the Chairman wants a point of clarification.

The Vice-Chair: Just a very brief question on a point of clarification: You said you would have some equity position and then there would be a mortgage flowing from that equity position. Can you clarify what exactly the details of that are?

Mr King: The details aren't yet finally known. I believe it's April 1 when the financial arrangements have to be finalized, and we only received the proposal on financing about 10 days ago, responded to it, and haven't received the counter-response.

The Vice-Chair: Just to get the position clear as to what the WCB will own in terms of its position in this—

Ms Angove: It will own 75% of the office tower and a prorated share of parking related to that.

The Vice-Chair: So that's your equity position in the corporation that's been established?

Ms Angove: That's right.

Mr Callahan: You've indicated in your brief to us that there would be no impact on employer assessment rates and on the unfunded liability of, what, \$11 billion, I think it is now? Is that an ironclad guarantee so that employers out there can rest easy that there won't be any increase in their rates?

Mr King: The Ontario Workers' Compensation Board has a pension fund or an investment fund of some \$6.5 billion. We have to have real estate as part of that total investment portfolio. Under rules of the Pension Benefits Act, 82% of the total investments have to remain within Canada. Most investment funds of this size have their portfolio broken down between bonds, equities and real estate. The real estate part of our investment branch has many real estate ownership positions. This would be one of the real estate ownership positions they would take, and it would form part of the portfolio of the WCB.

There was an article in today's Financial Post by one of the commercial real estate experts, who indicated that real estate is still a very valuable investment as a hedge against inflation. So what we're doing is similar to what OMERS, the teachers' fund and a lot of the other funds are doing. We're involving ourselves in real estate as part of the \$6-billion investment.

Ms Angove: The other thing I wanted to point out, following up Brian's point, is that most workers' compensation boards across Canada own their head office facilities in whole or in part, and some of them have entered into a very similar transaction to this, where the investment part of WCB invests in the office tower that the operations occupy. For instance, Saskatchewan has just entered into that kind of transaction. They have just relocated into a building where they occupy a significant portion of it and their investment fund owns a piece of it. So this is not that unusual.

Mr Callahan: It seems to me that I recall reading somewhere in this material or in the newspapers that the Treasurer was not terribly happy with this whole arrangement and he said he was going to—I don't know whether he used the word "stop," but certainly look into it. Is the Treasurer any happier now, do you know?

Mr King: I haven't spoken to the Treasurer myself. I can't comment, other than what the media might have reported the Treasurer having said. I believe the chairman, Mr

Di Santo, may have spoken to him. I believe it was speculated, however, that the board is a corporate body and that it would probably require the removal of Mr Di Santo and myself as the appointed members of the board if the government wanted to force the issue. The board of directors has been supporting this all along.

Let me just stop for a moment. A very strategic decision was taken in 1990.

Mrs Marland: When in 1990?

Mr King: July 1990.

Mrs Marland: When the Liberals were the government.

Mr Callahan: Is that a partisan comment?

The Vice-Chair: It is a comment out of turn, I might add.

Mrs Marland: I want to be clear about when that decision was made.

Mr Sorbara: The Liberals were in government and things were much better then.

Mr King: A strategic decision was taken as to what to do for future facilities for the Ontario WCB. Contracts were entered into, contracts that probably could have been broken at some point in time without as much downside risk for being sued. None the less, contractual arrangements had been made and the board would have been put into a difficult position.

Entering into a strategic situation like that, do you expose the board to short-term expense of unknown amount by breaking a deal, when in fact what you're really saying is, "We don't vote for the future of Ontario because we think it's not going to recover etc," by breaking this deal? If you look upon this as a very strategic deal that was a good decision in the first place, then does a temporary downturn in the economy make it a bad decision?

Mr Callahan: I want to address that, if I could. I think the biggest problem here is the appearance. When you've got something like \$42 billion worth of commercial real estate out there on the verge of being decimated or taken up by the banks under power of sale and you're building a new building, people look askance at that.

I also want to go to the question—one of the reasons was that you would be closer to transportation. Are you closer to the subway or to transportation than you are now?

Ms Angove: We are more accessible to different types of transportation modes at Simcoe Place than we are at 2 Bloor.

Mr Callahan: What's the closest subway stop?

Ms Angove: St Andrew and Union Station. We will be accessible to both.

Mr Callahan: How far is that from the building?

Ms Angove: Walking? I believe it's about 1,200 feet. It's the same distance to walk from St Andrew subway station to the lobby of Simcoe Place, if you walk outside, as it is to walk from the closest parking space at 2 Bloor to our lobby at 2 Bloor.

Mr Callahan: The subway runs right into the building at 2 Bloor, doesn't it?

Ms Angove: Yes. There is no question that the location at Yonge and Bloor is excellent. We're very happy with the location. That is not why we're relocating.

Mr Callahan: I want to give some time to my colleagues. I've seen Revenue Canada's building on Adelaide Street. It's very much akin to the needs you have. It services in a similar fashion, albeit a different type of activity, but it's small working stations for individuals, a large, full-floor surface. Is that not right?

Ms Angove: I'm not familiar with the facility. They did not respond to the proposal call. I can tell you they likely do not have the elevator capacity, because it would not have been designed to accommodate the traffic flow we bring into a building or the number of staff we have. They would not have access to accommodate our cable requirements, they would not have the lighting system required for our technology and they would not have the emergency power.

Mr Callahan: How can you say that if they didn't respond?

Ms Angove: Because it was not designed to accommodate an organization like the WCB.

Mr Callahan: Then you must have investigated that building, did you, in order to be able to make those comments?

Ms Angove: No. I'm saying that typical office towers like that one are not designed to accommodate the requirements of an organization like WCB. I don't know that Revenue Canada gets 152,000 visitors per year or has the amount of technology that we do or has the emergency power required.

Mr Callahan: They certainly seem to be able to keep track of everybody, so I would imagine they've got all sorts of technology. As far as visitors, I would think they probably receive as many visitors as you people do.

Mr King: I don't know the question—

Mr Callahan: I wanted to know why the Adelaide building wasn't looked at. It seems to me it would be a good swap. You could probably swap it with the feds and get a very much more accommodating arrangement than what you've got now. At least that's my impression. I'm going to yield to the member for York Centre.

Mr Sorbara: How would you describe the real estate market in the greater Toronto area?

Mr King: Awful.

Mr Sorbara: Are you aware that there is more vacant commercial space in Metropolitan Toronto than there is in the city of London, including Canary Wharf? Are you aware that it's that bad? There's more vacant space in Metropolitan Toronto. Do you think it's socially responsible for the WCB, given the current economic crisis, particularly the deflation in value of commercial office space in Metropolitan Toronto, for the board to be encouraging the addition of 725,000 square feet of office space in the Toronto core at this time?

Mr King: Was that a question?

Mr Sorbara: Do you consider it socially responsible?

Mr King: The board made its strategic decision in 1990 to build an office building which would be both an investment for the investment fund plus suit the board's business needs.

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Mr Sorbara: Yes, I appreciate that. There are other people who actually started office buildings at that time and capped them because they realized the market had changed dramatically.

How many integrated service units are there at 2 Bloor Street East now?

Mr King: There are 9 or 10.

Mr Sorbara: Isn't it true that each of those integrated service units, like other regional offices, could, as you say, operate independently and needn't be one next to another in one head office building?

Mr King: Yes. We could have a decentralized situation with integrated service units. Our findings are that decentralizing an integrated service unit is far more expensive than having a central location.

Ms Angove: If I may also add, the board of directors felt it was important for us to provide better services for employers as well as injured workers. A number of those units cover a large area, for instance, the construction unit, complex case units for injuries and diseases. If an employer comes in and has a case in Toronto west, but also has a case in the complex case unit, it can come to one location to have those cases dealt with, as opposed to travelling to various offices. So it was important for us to service not only the employers but the workers as well.

The Vice-Chair: Perhaps I could interrupt for just a second. There's been some discussion with respect to the kinds of consultation papers you've had conducted for yourselves in order to make this decision. It would be of great service to us and a great deal of assistance—I'm speaking on behalf of the whole committee in taking this prerogative—to be provided with some of those background papers. Having had an earlier discussion with our researcher, we found that there's a lack of information available to us with respect to the kinds of decisions you have made. So if you have any background documentation or papers that you can make available to us, we would request that. It would be very helpful if we could have that.

Mr King: Certainly, we can comply with anything other than what might have come in as a privileged private tender document.

The Vice-Chair: Yes. I'm talking about feasibility studies or consultation papers that were conducted on your behalf. I understand there were three consulting firms that made studies available to you. If you could make those available, we would appreciate it.

Mr Duignan: I'll add time to this if it's a point of clarification on this point.

Mr Duignan: If we going that route, we could have some of the documentation that led to the decision of the board of July 1990 as well.

The Vice-Chair: Back to Mr Sorbara and others. We're out a couple of minutes.

Mr Sorbara: I want to get back to the question I asked in the middle of the presentation, and that is to find out from you what quote you received from your current landlords, at what rate you could renew your lease at 2 Bloor Street East.

Mr King: Obviously, when you're entering into a strategic project like the Simcoe Place project you must provide certain guarantees, as a developer, a banker and a tenant. One of the things that was done at the time the decision was made to proceed was that the WCB would look into no other options while the detailed planning was going into Simcoe Place. It is quite likely, given what's going on elsewhere around Toronto, though, that we could get a very favourable deal on the rental space.

I'm not too sure you have given full account of the previous description of why 2 Bloor is so unacceptable from a business point of view. All one has to do is come to 2 Bloor at 8 o'clock in the morning to see hundreds of people trying to get up in the elevators in the building to see that it is an unacceptable facility for our business. There may be other empty spaces we could get at less cost. I don't believe myself that we could get 20 years or guaranteed business space that will suit our business and provide us with the ability to provide this sort of quality service that Ontario, on the one hand, demands of its WCB.

I sat before another committee of this Legislature explaining why service delivery is not as good as it should be at the WCB and spent a lot of time being criticized because we weren't providing a good enough service. I think what we're tried to show through the brief presentation is that our physical layout does not allow for the kind of service that Ontario demands.

Mr Sorbara: I'll just tell the Vice-Chairman that for two years I was the minister responsible for the WCB in Ontario. On a number of occasions I had meetings in the corporate boardrooms of 2 Bloor Street East at 8 o'clock and I am familiar with the delay. My own assessment of the market is that you could abandon this deal and renew your current lease for zero rent per square foot for the first four years and thereafter perhaps \$5 or \$6 per square foot for the balance of a 10-year lease.

On that basis, you could move three or four integrated service units out of 2 Bloor Street East and locate them elsewhere at similar rents in the greater Toronto area; that is, at zero dollars per square foot for the first four years and \$5 or \$6 for the balance of that time. Having done that, you would reduce the pressure on the elevating system and you would reduce the general pressure within the building, even leaving those floors vacant. We have seen no cost figures that the board has generated to solve the problems it has at 2 Bloor Street East other than by building a new palace, which will not help the clients of the WCB but provide optimum conditions for the workers at the WCB.

I want to say to the Chair that I have nothing against improving the working conditions of the workers at the WCB, but this is an extravagant proposal. Renting office space, adding to the glut of office space in the greater Toronto area at this time in this market is socially irresponsible and is not something an agency of the government of Ontario should be undertaking.

All of these problems could be solved and can be solved in a far cheaper way even if you vacated half of your current building and renewed the lease and placed those integrated service units elsewhere. It's just inappropriate for you to be doing what you're proposing to do at this time.

I plead with you to come before this committee and tell us the cost of getting out of this contract, which is not a completed contract, because you've already testified that the financing arrangements have not been finalized. If the financing arrangements are not finalized, there is not a binding contract which, if you breach, will give rise to liability on the part of the WCB.

Mr King: There are three law firms in Ontario that might disagree with you, because that's how many firms are involved from the WCB's side. I myself asked for a third firm to become involved in addition to the firm that was looking at the facility from the point of view of the investor and from the point of view of the tenant. I don't think anyone can tell you with any certainty what the unknown of breaching a contract such as this would be. My own consideration would be that it would be very expensive.

Mr Sorbara: We would like to see evidence as to what the potential liabilities are and the advice of your lawyers, if that could be provided.

Am I to take it then that there was no inquiry made at any time as to what offer would be made by your current landlord, should you determine—

Mr King: Our current landlord made several approaches wishing to enter into that kind of a discussion. They were prevented from doing so by the terms of the agreement. As I indicated, when you enter into an agreement on a development like Simcoe Place, you agree to be somewhat of a constant companion rather than a fickle-hearted person who is going to run and look at other space.

Mr Sorbara: I'm asking you what inquiries were made before you entered into that agreement with Simcoe Place.

Ms Angove: Can I just answer that?

Mr King: I wasn't there yet at that time.

Ms Angove: Bramalea did not respond to the tender call with 2 Bloor Street East as a potential site for WCB, so it was not part of the tender to even consider in the beginning.

Mr Sorbara: Surely, in comparing whether or not you will enter into an agreement with the people at Simcoe Place or renew your current lease, you would make inquiries of your landlord as to what it might cost in a renewed lease on a per-square-foot basis.

Ms Angove: It was our understanding that Bramalea wanted the WCB to vacate that building because it needed to retrofit it. The costs to retrofit that building are approximately \$60 per square foot or approximately \$35 million to \$40 million. That retrofit will not give us additional elevator capacity, it will not give us access floor and it will not give us emergency power backup because They cannot put that in the building.

Why would we have discussions with Bramalea to stay in a building that simply costs us too much money to occupy? It costs us much more than net rent, even if it was zero net rent. There are many costs that we incur with downtime. It's not only loss of service delivery. We're paying people to sit there while their equipment doesn't work. There's a cost associated with that, and it's millions of dollars every year. You may be paying zero net rent, but you're paying a lot of money out of

the other pocket for people to sit and do nothing while their equipment is down.

There is nothing you can do to improve that building. We relocated our data centre offsite to try to help improve it. We relocated our microfilm functions offsite. We relocated the print shop and we relocated final files. To the extent we could make that building better for us, we have done everything we can do.

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Mr Sorbara: Why haven't you considered relocating some integrated service units offsite?

Ms Angove: Because it costs more money to decentralize and duplicates service that you can offer in a centralized facility. Plus, if you want to give those people the kind of work environment that we require—I'm talking about an emergency backup system, appropriate lighting, appropriate access flooring etc—you would pay to retrofit any existing facility in the suburbs, if that's what you're talking about relocating to, and that is very costly to do.

Mr Sorbara: I'm sorry; I've visited many of the board's sites around the province and they do not have the kind of flooring, the kind of lighting you're demanding in the head office. What you say about relocating an integrated service unit is thoroughly inconsistent with the very philosophy of integrated service units, and that is their ability to stand alone and serve comprehensively the needs of the clients, the workers and employers of the board.

I could be satisfied on this whole thing if you could bring us the documentation, the analysis and the costing that you did to solve the myriad of problems that seem to exist at 2 Bloor Street East and the alternative methods of solving those, including staying in the building. We haven't seen anything about that. You made no inquiries with Bramalea as to how much it would cost to stay there.

Ms Angove: We worked with Royal LePage real estate consulting services on that. The individual consultant we worked with is an architect. He worked with us, not only on evaluating the problems at 2 Bloor, but evaluating the potential retrofit cost of the existing site that's submitted in the proposal call. It was very clear that the cost to retrofit far exceeded the cost to relocate to Simcoe Place.

Mr Sorbara: What about moving out some of the integrated service units to a new location?

Ms Angove: We discussed that with the board of directors in July 1990, the pros and cons of remaining centralized versus decentralizing. There was an agreement at that time that it made much more sense to remain centralized. One of the problems in decentralizing the integrated service units in this geographic area is that it's just too small. It's not like the London regional office, where someone can move from one area to another and is still serviced by the London regional office. In this geographic area, you can work in Etobicoke and live in Scarborough, so where do you locate the integrated service unit? Is it located close to the injured worker or close to the employer? What happens when that worker moves? Do you relocate that person to another integrated service unit? It becomes very complicated and an administrative nightmare to try to do it, because the geographic area is just too small.

Mr Sorbara: I'm just suggesting to you—

The Vice-Chair: Mr Tilson has a clarification, if I may interrupt.

Mr Tilson: I just wondered if my name was on the list.

The Vice-Chair: Oh, I'm sorry. Carry on, please.

Mr Sorbara: I'm suggesting to you that the problems of overcrowding and pressure on buildings is because there hasn't been any attempt to decentralize the main office functions from the integrated service unit functions of the WCB, so that within the facility that accommodates a head office you have the very heavy traffic patterns of an integrated service unit. An analysis should have been done and considered for decentralizing those areas, particularly given the terrible glut of office space right through the greater Toronto area.

I appreciate that in July 1990 the board perhaps wasn't aware of the impending crisis in commercial real estate in the greater Toronto area, but that reality having developed, surely to God the Workers' Compensation Board ought to have re-evaluated whether it was doing the appropriate thing, in the best interests of the board, firstly, and in the best interests of the economy of the greater Toronto area and the province of Ontario.

I'll tell you that there are buildings in Toronto of 400,000 or 500,000 square feet that have a current market value of zero. They are worthless. No one will buy them. No one will take over or put their name on the title or take over the management cost of those buildings. If that's the case, the board is investing in a building which, in the absence of the board's tenancy in that building, could not be built and would have very little value given the current and future market, say the next five or six years, in the greater Toronto area. I just want to say to you that I think it's socially and economically and commercially irresponsible of the board to do that.

Mr King: There are private partnerships here who were involved in 25% of the total cost of this project. Presumably if the market feels that this is not a proper project to go ahead, then neither will the financing come forward nor would the private partners be prepared to come forward.

I don't doubt your words that this is a bad time to be going ahead and proceeding with this. I again move it back and tell you that a project that had to come into place in 1995 was begun in 1990. Do you blink at this point in time, as you're suggesting we blink at this point in time, and say that because of the empty space, because there are landlords out there that want us as a tenant, we should proceed to go off our strategic plan, which is minimally a 20-year plan?

Mr Sorbara: What I'm suggesting to you is that the decision of the board of directors of the Workers' Compensation Board was made at a strategically important time for the board of directors, knowing that the province was going into an election and that their decision would not be highlighted or reviewed. In July of 1990 it was apparent to everyone that there would be an election.

The election having taken place and a new chair having been appointed and a new vice-chair having been appointed, the whole question of whether or not to relocate and reorganize the board on a different basis so as not to create an overburdened head office should have been examined on the basis of real, hard evidence and data. That hasn't been done yet, or

at least we haven't seen copies of it. Given that that hasn't been done, it should be done and this deal should be put into abeyance or put on hold until that work is done.

I have no further questions or comments, Mr Chair.

The Vice-Chair: Well, I don't know if there's—

Mr King: I don't think there was a question, myself.

The Vice-Chair: You don't have to answer or you don't have to comment. I think there are actually a couple of minutes left for the Liberals, but we'll move on. You can take that later if you like. Mr Tilson is next, and we'll move to the Conservatives' half-hour.

Mr Tilson: As I understand it, you indicated the contract was signed in June of 1992. Is that what you're saying?

Ms Angove: The full transaction was executed in June of 1992. That's right.

Mr Tilson: That's the contract between the Toronto-Dominion Bank and the developer, which is—

Ms Angove: Cadillac Fairview.

Mr Tilson: —Cadillac Fairview—and WCB?

Ms Angove: That's right.

Mr Tilson: Was there a series of contracts, or was that the contract?

Ms Angove: No. There are a series of contracts for the investment fund. There's a series of contracts, then, for the tenant, our series of contracts.

Mr Tilson: Are you able to make copies of all of those contracts available to the committee?

Mr King: I will have to take that under advisement pending discussion with the legal people. I simply don't know whether there are some confidential aspects of it, but certainly, if there are not, I'm perfectly willing to share those.

Mr Tilson: What could be confidential? It's a \$200-million venture that is quite controversial.

Mr King: Well, \$200 million is the figure that was quoted as the high end to the project. It has come in at lower than \$200 million once the tenders were let.

Mr Tilson: But we won't know that unless we see the contracts.

The Vice-Chair: Might I suggest, if possible, that if there's some sort of confidentiality requirement, either the auditor look at those contracts in confidence or we can go in camera to look at whatever documents cannot be made public, for that purpose.

Mr Tilson: Well, Mr Chairman, I would propose that whatever contracts they feel can be made available—I think we're entitled to know what contracts you're not going to make available to us, if there are any, and we could discuss why. Hopefully you would make them all available to us.

Mr King: Hopefully.

Mr Tilson: Now, you indicate that that is when the series of contracts ended, in June of 1992?

Ms Angove: Yes.

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Mr Tilson: And the first one was when?

Ms Angove: The first commitment by WCB was in March 1991.

Mr Tilson: All right. And when was the commitment to purchase these lands made?

Mr Callahan: They don't own them. They're leased.

Mr King: They're leased lands.

Mr Callahan: The CBC owns them.

Mr Tilson: So the WCB will not own the lands on Simcoe Place?

Mr King: That's correct.

Mr Tilson: Strictly, all you're going to be doing is leasing those lands?

Mr King: That's correct.

Mr Tilson: And you'll make available to us the copies of all of those leases?

Mr King: With the aforementioned caveat, yes. I don't believe there is any problem with releasing them, but I would like to just make absolutely certain so that I don't mislead the committee.

Mr Tilson: Have those leases been signed?

Mr King: I'm not too sure which leases you're referring to.

Mr Tilson: Any of them.

Ms Angove: The ground lease certainly has been signed, and our commitment—

Mr Tilson: You're going to be leasing, you said, 70% of the building. Is that not correct? Is that what you're saying?

Ms Angove: Yes. Our commitment to lease has been signed.

Mrs Marland: Excuse me. A commitment to lease has been signed?

Ms Angove: That's right.

Mrs Marland: Does that mean the lease has not been signed?

Ms Angove: The actual lease, you're right, has not been signed. The agreement to lease has been signed.

Mrs Marland: That's important to know.

Ms Angove: It binds us in the same way the lease does.

Mrs Marland: Thank you.

Mr Tilson: So the building will be owned by a numbered company? Who's going to own the building?

Mr King: The building will be owned jointly by the WCB of Ontario and by a partnership of Cadillac Fairview and the Toronto-Dominion Bank. They're roughly 12.5% owners each and we're 75% owners.

Mr Tilson: So WCB will own 70% of this building.

Mr King: The WCB investment fund will be 75% owner.

Mr Tilson: Did you obtain the order in council pursuant to section 64 of the legislation?

Mr King: No, the Workers' Compensation Board received at least two and probably three legal opinions that it did not have to seek the approval of the Lieutenant Governor in Council.

Mr Tilson: So you don't feel there's any accountability necessary with respect to this venture to the government?

Mr King: Several days before I started as the vice-chair of administration of the Ontario WCB, the board of directors voted on that stage of the project. Included in that were the legal opinions that they did not have to seek the approval of the Lieutenant Governor in Council.

Mr Tilson: Have you or anyone on the board had any discussions with the current Treasurer or any other Treasurer with respect to this venture?

Mr King: I have had no discussions with the Treasurer. I can't know whether anyone else at the board has had any discussions with the Treasurer. I believe the chairman of the board, Mr Odoardo Di Santo, perhaps had some discussion with the Treasurer.

The Vice-Chair: Mr Tilson, I've just had a request for a point of clarification.

Mrs Marland: Can I just say, if we keep interrupting each other, we don't end up with equal time, and I'm very anxious to ask questions too.

The Vice-Chair: I'm trying to be consistent, Mrs Marland. I interrupted Mr Sorbara on a couple of occasions, and I will add some time to Mr Tilson in order to accommodate reasonable requests.

Mr Callahan: I don't mean to interrupt you, Mr Tilson, but I wanted a clarification on that. I thought you said along those lines that you consider yourself an independent body. If the Treasurer interfered, it would require your resignation and that of Mr Di Santo.

Mr King: No, I believe that was speculation, perhaps by either the media or some third party, not myself.

Mr Callahan: I thought you said that. That was why I wanted clarification.

Mr King: I said it had been speculated that the government would remove Mr Di Santo and myself.

Mr Callahan: Okay. Thank you, Mr Tilson.

Mr Tilson: Has the deed been signed? Has the deed passed between the three groups?

Ms Angove: Yes, it has been executed.

Mr Tilson: Executed and registered on title?

Ms Angove: Yes.

Mr Tilson: When did that take place?

Ms Vivian Varnam: June 1992.

Ms Angove: It was registered June 1992.

Mr Tilson: Okay. Getting back to when all of this started, somewhere there is a reference to 34 proposals.

Ms Angove: Right.

Mr Tilson: Can we have copies of all of those proposals?

Mr King: Those were the proposals given to us in good faith by private developers, and I'm not too sure it would be fair at this point to have their private strategies made public. But perhaps by whiting out who the developer was, if we could make them anonymous, certainly that would be a possibility.

Mr Tilson: I can tell you, sir, that this venture that you have got into is an amazingly controversial issue. I think we're entitled to know whether any of these proposals would have put forward facilities that could mollify your needs. You've explained all the problems that you have on Bloor

Street. There may be other alternatives, and I think we would like to know what those other alternatives are that have come to your attention.

Mr King: Those were alternatives that were looked at in 1990. There could in fact be more, given the increased empty space in the greater Metro area.

Mr Tilson: Dealing specifically with the 34 proposals, you will make those available to us?

Mr King: I have indicated that, provided it breaches no legal confidence, I see no difficulty with that.

Mr Tilson: When will you tell us whether or not you'll be able to give us any of the information you are seeking opinion on?

Mr King: Any holding back of information would be very limited and would be related to private contractual agreements of confidentiality, but I believe those to be very limited. I can let you know tomorrow on that.

Mr Tilson: All right. I suppose that would include any impact studies which you make available to us, copies of impact studies, feasibility studies that you may have undertaken.

Mr King: Yes.

Mr Tilson: Did you undertake any impact studies?

Ms Angove: On the 34 submissions?

Mr Tilson: Yes.

Ms Angove: Yes.

Mr Tilson: And you'll make those available to us?

Mr King: Again, there's no wish to withhold anything from the committee. You'll be informed tomorrow.

Mr Tilson: And with respect to reports from independent consultants which you've referred to, would they be included as well?

Mr King: Yes.

Mr Tilson: I guess one of the concerns we have—it may well have been that, because of the great availability of space, many of these owners of these buildings may have refitted many of these buildings to meet your needs for free or for substantially less than what you're suggesting. Was that pursued?

Mr King: Not since June of 1992.

Mr Tilson: Well, prior to June of 1992?

Mr King: Prior to June of 1992, the crisis in the real estate market was not apparent. It had been looked at in 1990, however, at the time of the original proposals being reviewed.

Mr Tilson: I find it difficult to understand what you're saying. However, I think Mrs Marland will have some questions in a moment. I just have a couple of other questions.

You stated that there will be no impact on the employer assessment rates and the unfunded liability.

Mr King: That's correct.

Mr Tilson: Do you have anything in writing that supports this conclusion?

Mr King: I don't know just what you mean by "anything in writing"—an actuarial projection, an accounting projection?

Mr Tilson: Absolutely anything, Mr King.

Ms Angove: The consultants' reports will confirm the return on investment.

Mr Tilson: You've made a statement. The employers are concerned that their rates are going to go up because of this tremendous structure that you're putting up.

Mr King: As I had indicated in an earlier answer, the Workers' Compensation Board of Ontario has a \$6.5-billion investment fund. About 7% of that fund is to be allocated to real estate under the board's investment strategy. In putting down some money in equity and borrowing the rest, it will not impact the unfunded liability. The amount put down for equity purposes would be money that would be put down on other real estate ventures, because it's part of the board's roughly 7% that's invested in real estate.

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Mr Tilson: Someone has told you that there would be no impact on the employer assessment rates. Can you provide us with the written statement or report that made you come to that conclusion?

Mr King: I'm the one who is involved, along with the other board members, in setting the assessment rates. The position of the investment fund making a real estate investment will not impact the assessment rates of Ontario employers.

Mr Tilson: You made a submission, presumably, to the board to advise it that there would be no impact on the employer assessment rates. Can we have a copy of that report?

Mr King: Again, you can have copies of all the reports, and if that is among the reports, you can have it.

Mr Tilson: Was the Downsview site examined as a possible site?

Mr King: We have looked at the Downsview site for some years now in terms of alternatives. The Downsview site simply has not the access. There is no way to get to the Downsview site except with a map. No public transit goes to the Downsview site.

Mr Tilson: We're talking about an amazing cost to put up this building at Simcoe Place. Did you consider a shuttle bus?

Mr King: You mean 150,000 people a year using a shuttle bus, from where? From Union station, from—

Mr Tilson: I don't know, sir. You're the one who's creating this thing. I guess I'm just looking for how you came to your conclusions. So far nothing has been made available to us, and I trust you'll have—

Mr King: Can I make a point here? I don't know of any requests for information that came to us that we didn't respond to.

Mr Tilson: Okay. Well, you've got quite a list this afternoon.

Mr King: Yes, but we have nothing before us. We haven't got anything. I know of no requests, other than that we were to appear. We sent some material over ahead of time, which were the board minutes and the board orders.

Mr Tilson: Mrs Marland has some questions. Could you inform us tomorrow morning what information, hopefully all of it, you could make available to us on this project?

The Vice-Chair: On a point of clarification with respect to the last statement regarding information that was requested, our researcher informs me that we did ask for a copy of the agreement, and that agreement was not made available.

Ms Angove: Who did you request that from?

Mr Ray McLellan: I'd have to go back to get the lady's name. I corresponded with your office just prior to Christmas, the week before Christmas.

Ms Angove: Yes. I spoke with you.

Mr McLellan: I did ask for a copy of the agreement.

Ms Angove: I'm sorry, I don't recall that request. I think we talked about what would be sent over and I did send you the package we talked about. Which agreement are you referring to? There are four leather-bound books of documents.

Mr McLellan: The 1992 signed agreement.

Ms Angove: There are four leather-bound books of documents that were signed in June 1992. Are you asking for all of those?

The Vice-Chair: Does that make up the whole agreement?

Mr King: It would make up the whole agreement to this stage. It wouldn't contain all the necessary consulting reports and background reports that have been requested.

The Vice-Chair: None the less, I think it's been established that we want all and any relevant information made available to us, so I think that would be forthcoming from you, and that request has already been made.

We'll move on to Mrs Marland. She has the floor.

Mrs Marland: It's really difficult to know where to begin. On the surface, from the information this committee has today, I think this is probably the most outrageous example of empire-building I have seen in my 20 years in politics, and I think there have to be a lot of answers given. It's probably unfortunate, Mr Chairman, that we're not dealing, in fairness, with the chairman of the board. Mr King, I gather that you're vice-chairman of the Workers' Compensation Board.

Mr King: That is correct.

Mrs Marland: Does that mean you're paid a salary as vice-chairman? On our agenda you're listed as vice-chair of administration. Does that mean as vice-chairman you're responsible for the areas involving administration?

Mr King: Generally speaking. It's somewhat more complex than that, but I work under the general direction of the chairman in law.

Mrs Marland: Who appointed you to the WCB?

Mr King: The Lieutenant Governor in Council.

Mrs Marland: When?

Mr King: April 1992—no, 1991; it just seems like it.

Mrs Marland: So you've been serving on the board for a year and a half at this point, then.

Mr King: Yes.

Mrs Marland: First of all, I want to ask you—you told Mr Tilson, in answer to one of his questions, about why the board had decided to waive a requirement for an order in council to go ahead with this gigantic investment. You said

the board made the decision to waive that requirement based on three legal opinions. Am I correct?

Mr King: Yes. I said two and possibly three.

Mrs Marland: It's interesting to me to read the minutes of the meeting of the board of February 1, 1991, where there in fact is one legal opinion in those minutes, a legal opinion by Mr Atkinson of Aird and Berlis, who said that in his opinion an order in council was not required. Are you suggesting there are two other legal opinions, other than Mr Atkinson's?

Mr King: The previous chairman of the board, Dr Elgie, was acutely aware of that particular question, and I believe he himself sought legal opinion on whether an order in council was necessary and received the legal advice that it was not necessary. Under the terms of the Pension Benefits Act—we are required to manage our investments according to the rules of the Pension Benefits Act—we're allowed to invest in real estate, and it was considered that this was to be an investment in real estate.

Mrs Marland: A \$200-million investment in real estate at a time when industry and commerce and the employers of this province can hardly afford the workers' compensation rates and payments that they have to make today is a little difficult to appreciate, I guess.

Mr King: Can I respond? I've already indicated that \$200 million was the high estimate at the time, and it has come in significantly lower than that.

Mrs Marland: How much lower?

Mr King: Around \$180 million, less than \$180 million. Secondly, if the board is going to wisely invest its investment portfolio, it's got to utilize different investments, including equities, bonds and real estate. From the investment side, this is not anything other than an investment in real estate.

Mrs Marland: Mr King, I'm not in real estate and I have never been in real estate—I'm not a realtor—but it's pretty difficult from a commonsense point of view to appreciate how it's a good investment to spend even \$180 million building new office space, as my colleagues have been pointing out, in a city with the kind of surplus in office space that the city of Toronto and the greater Toronto area has today. Obviously, we don't share the same opinion on this \$180-million investment.

The thing that really bothers me is when I read in your comments that there would be no impact on employer assessment rates or on the unfunded liability. That may sound good to you. What I would like to see is a decision by the Workers' Compensation Board that in fact does make an impact, to reduce these assessment rates; never mind saying there's no impact to increase them. I would like to see a situation where the board makes a decision on an investment where the unfunded liability situation is addressed. Sure, there's no impact on employer assessment rates. My response to that is that I think it's too bad there isn't.

This answer you gave that when you went shopping for new office space you couldn't talk to your present landlord—I heard Ms Angove say she wouldn't consider talking to your present landlord because of the type of building, that it just couldn't be—

Ms Angove: And because they did not respond to the proposal call.

1530

Mrs Marland: Excuse me. I understand that they didn't respond. But the point is that we know there are large organizations moving around this city today from one office building to another. For what reason? Again, common sense would tell you that for the most part they move out of one office building into another because they can get, in today's market, four, five or 10 years with nominal rents if they sign a 20-year lease. Essentially, what you've done is to sign a 20-year lease, as far as we can see from the information you've given us, with no "free" rent or accommodation up front.

Ms Angove: Can I comment on that?

Mrs Marland: Excuse me. Just wait till I've finished, because the question really was to Mr King. Apparently, you went to a lot of trouble to get an opinion from Mr Brill. I gather Mr Brill is a professor, author and leading consultant in productivity. If you went to such a lot of trouble to get an opinion from him about the potential for efficiency gains at Simcoe Place, I have to wonder why you couldn't have sought similar counsel about other alternatives.

You mentioned that you can't go shopping. I think your words were that you have to be a constant companion with Simcoe Place rather than appearing to be fickle-minded. Well, when you're shopping with the dollars that are earned by the people in business in this province who in turn create jobs in this province, I'm sorry, you have to go shopping very hard. I'm not convinced by what I've heard today that you actually have done that kind of shopping. You mentioned that you had a consultant, I think, from Royal LePage. Did you pay this person from Royal LePage for consulting services?

Ms Angove: Yes.

Mrs Marland: And you had the opinion of one person.

Ms Angove: No. We also had the opinion of Drivers Jonas as well. They've been involved in providing advice on the transaction since the beginning.

Mrs Marland: Who are they?

Ms Angove: They are real estate consultants as well.

Mrs Marland: You didn't mention them; you mentioned Royal LePage.

Ms Angove: I'm sorry. They have provided basically the same advice. As recently as Thursday of last week, I did a presentation with a representative of Drivers Jonas who confirmed that there are no existing facilities that can accommodate the WCB. That is as recent as last Thursday.

Mrs Marland: No existing facilities that can accommodate your needs in this—I hate to make the pun, because you're now building with Cadillac Fairview, but I would suggest that maybe there is no existing space available in this Cadillac model.

Ms Angove: No. There is no existing facility that can accommodate this amount of space and meet our locational requirements.

Mrs Marland: Exactly, but you're saying two things here. That's the point I'm trying to make. You have a very

demanding list. You are building an empire in terms of a building. You have to admit, when you describe all the facilities that are going to be in this brand-new building you're building, that there isn't anything you've missed in terms of the design. When you talk about—

Mr King: Can I just respond to that?

Mrs Marland: No, I'm sorry. I haven't—

Mr King: You don't want to ask questions?

The Chair (Mr Remo Mancini): Order, please.

Mrs Marland: Thank you, Mr Chairman. When you describe the trouble you've taken to make sure that all these needs are met in this new building, I'm sure there isn't an organization in this province that wouldn't like to have the same option. I'm sure there are ministries within our government that would like to have the same option the Workers' Compensation Board has had.

My understanding of the Workers' Compensation Board is that it is an arm's-length agency of the government. I recall that the last time I was in a position of learning something about the WCB was when the Workers' Compensation Board came before this Legislature's standing committee on agencies, boards and commissions. As an arm's-length government agency, I don't think your board should have had the choice or the option of going ahead and spending \$180 million building a brand-new building for its palace when we have other agencies of this government, including ministries as well, I might add, that work, I'm sure, in far less than an average of 150 square feet per worker, that do not have the conveniences of all the equipment.

You talked about the special flooring and all these other options. I'm sure those options are the ideal choice, but in this province in the kind of situation we've been in—we certainly were in a recession when you made the final decision a year ago, if you said you made it in July 1991. I just don't understand how the board could have been so irresponsible as to make this decision at that time, knowing what the costs were. You said you haven't even finalized how it's going to be paid for. I think that's particularly interesting.

If you have other answers that you haven't been able to give so far to the questions that have been asked this afternoon, maybe you can give them, but if you can tell us—

Mr King: I don't hear a question.

Mrs Marland: Well, you have been asked about the cost, Mr King. If you think this is amusing, I don't. You have been asked about the cost of this building and I'm simply saying that in your presentation you talked about \$25 a square foot for 20 years. Then when I read the minutes of your meeting, in fact those are not the words in the minutes of your meeting of February 1, 1991. It says, "From a tenant perspective, the WCB will be assured the security of a long-term fixed lease over 20 years at average occupancy costs comparable to market rental rates."

Does that mean the market rental rates of 10 years from now, if they are more, on average, than \$25 or \$23, \$22, whatever your base rent was, will be what you will be paying?

Mr King: No.

Ms Angove: That's exactly right. I mean, that stays fixed. The \$25 stays fixed.

Mrs Marland: Well, one of you said no and one of you said yes.

Ms Angove: If your question is, "Does the \$25 stay fixed for 20 years?" the answer is yes, it does. So when other rents are escalating—for instance, someone who's paying zero net rent for three years, his rent will escalate in the later stages of his lease. That's how developers get back the money they lose in the upfront part of the rent when it's zero net rent. They just get it back later in the rent. If you don't pay it up front, you pay it later. When they are paying it later, our rent will be fixed at \$25 a square foot.

Mr King: Could I answer one question you had?

Mrs Marland: Yes, please.

Mr King: You had referred to the building as a palace and you said it has all these options which are presumably unnecessary. Is it the ramps and parking for injured workers that you object to, and the accessibility? Is it the efficiencies that will be provided by access flooring which will allow the equipment to be moved at no cost versus having to go up through the roof at the present time? These so-called options are not things that will lead to workers working in luxury. It is minimal working conditions, business cases which will make us more efficient, and our customers will be able to access us.

Mrs Marland: Mr Chairman, I don't think Mr King needs to insult me by suggesting that I would—

Mr Pat Hayes (Essex-Kent): What have you been doing?

The Chair: Order, please. You'll have your turn.

Mrs Marland: It's very interesting, since people with disabilities happens to be one of my shadow cabinet portfolios, and I really take exception to the fact that you're suggesting I would be opposed—

Mr King: I asked you a question.

Mrs Marland: Excuse me. You're not even letting me answer.

The Chair: Order, please.

Mr Mike Farnan (Cambridge): Oh, my God. Do we have to put up with this, Mr Chair?

The Chair: Every member will have a chance to put forward his or her ideas and ask questions.

Mrs Marland: For you to suggest that I'm opposed to this new building because I might be opposed to—

Mr Farnan: You don't treat the—

The Chair: I'm going to have to add more time to Ms Marland's time if you keep interrupting her.

Mrs Marland: —ramps for injured workers is a little bit beneath you. That's all I'm going to say. I think the rest stands for itself.

If the government of this province thinks it's okay for the Workers' Compensation Board to spend \$180 million to build its own palace on the most expensive real estate in this city, then that's on its back; it's certainly not on ours.

The Chair: Mr Tilson, you have about 30 seconds.

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Mr Tilson: There's been much time spent on the tremendous savings there are going to be. Can you give us a financial framework of what this whole venture is going to cost, the revenue which you expect, whether it be for rental or otherwise? There must be a complete breakdown. I appreciate your issue with respect to how it's going to cost less than it is at Bloor Street and that sort of thing.

Mr King: We have reports which give the return to the fund, for instance, under various different scenarios, and our background papers will be distributed to you as per your earlier request.

Mr Tilson: I had one other question. Do I have time?

The Chair: Quickly.

Mr Tilson: The question that many of us who sit in the Legislature have, because of the questions that are given to us by constituents, is on the service delivery with respect to workers' compensation. I, as a sitting member, can tell you that you, not you personally but the Workers' Compensation Board, are described as a monster out of control, that the service delivery, to be polite, is absolutely appalling. There's been a legislative committee that has recently reported on this matter and there has been an internal task force of the board that's reported on this matter, all of which have said the same thing. Virtually every aspect of the service delivery of the Workers' Compensation Board needs revamping. Can you tell me how this venture will solve that?

Mr King: The earlier presentation on the efficiencies to our business, I believe, did cover that. It talked about the fact that when people come to visit us they can get there more easily, which is of itself a service delivery issue, which is accessibility.

I apologize to the member if she felt I was being insulting, and please, I withdraw any comment that you may have found insulting.

Mr Tilson: You can apologize to her later. Meanwhile, you're dealing with my question.

The Chair: The time has expired. We have Mr Duignan, Mr Hayes and then Mr Fletcher. You'll have to divide the time among yourselves in order to properly share it.

Mr Duignan: First, on behalf of the government side, thank you for coming along and making a presentation here today and tomorrow. I just have a couple of questions and then I will turn it over to my colleagues.

When the initial discussions started to take place of exploring the possibility of relocation of the WCB headquarters from Bloor Street to elsewhere—I understand that took place in the late 1980s some time—was the government of the day made aware of the thinking of the WCB at that time?

Mr King: I was not present at the time, but I understand there to have been monthly meetings held between board officials and the minister in order to brief the minister on all and sundry matters that were taking place at the Workers' Compensation Board.

Mr Duignan: There have been numerous requests for various pieces of information from you here today. Could that information also be made available to this committee?

Mr King: I'm not too sure that meetings between the board and the ministry in 1989 or 1990 are either available to me or, if they are, whether that has some sort of privilege. I would have to check, in addition to the check I have to do on some of the information Mr Tilson wanted.

Mr Duignan: Thank you. When you and the Chair became appointed to the Workers' Compensation Board some time in April 1991, at that time you undertook an evaluation to see if this was a good decision for the Workers' Compensation Board, and you hired some three independent consultants at that time. Basically, their conclusion was that it was indeed a good investment for the Workers' Compensation Board. Could you maybe go over some of those reasons for the committee?

Mr King: Ms Angove earlier had gone over some of the reasons why this is a good investment. Number one, the investment is guaranteed by the tenancy of the WCB; therefore, we don't pay our rental fees to a third party and get no return. Part of the return on the WCB's investment fund is therefore guaranteed by our rent. It's anticipated that there will be a rate of return to the investment fund from the office tower of about 13%. That is a significant rate of return to our investment fund.

One of the other members who had asked the question talked about the unfunded liability. If we could have a guaranteed investment of all our funds of 13% for 20 years, I think perhaps that would go a long way towards dealing with the question of the unfunded liability. So from the point of view of the office tower as an investment, I don't think anyone could question that, and the documentation supporting that position will be made available to this committee.

Mr Duignan: In terms of dollar value, what would that return in the amount of dollars be every year, roughly?

Mr King: It's over \$20 million a year.

Mr Duignan: For 20 years. So in fact, of the initial investment of—I don't think it's a full \$180 million because Cadillac Fairview and the TD Bank are also putting up some 12.5% of the funds each.

Mr King: That's correct.

Mr Duignan: So you're talking about \$140 million or \$150 million. In fact, for an initial investment of \$150 million, you will get some \$400 million back over the 20-year span of this agreement?

Mr King: Understand that we're not putting up the entire \$140 million or \$150 million. We would be putting up only a portion of that. The rest of it would be borrowed money. So we would be making money by borrowing money.

Mr Duignan: No matter what way you look at it, it's still a good investment for the Workers' Compensation Board.

Mr King: It's a good investment for the Workers' Compensation Board. What I've heard by way of critique is that the timing is particularly bad.

Mr Duignan: I can see the mismatch between the board's needs and the capacity of the existing building. It results in a number of inefficiencies and imposes some economic costs on the board, as well as social costs on the injured workers. Could you give us some idea of what these costs are. To what extent would building modifications in an existing building be possible?

Mr King: Ms Angove had earlier pointed out that if you're in a wheelchair and want to come to 2 Bloor, you've got to ride three elevators, one of them being the elevator which takes you up the service area and through the garbage room. There is no modification to 2 Bloor that will deal with the basic structural function. It was never built to have access for injured workers.

In terms of the other areas, we spend an incredible amount of overtime payments in order to get people to come in on the weekend to run cables through our ceiling because we have no access flooring. The amount of time lost because of eye strain and bad morale because of the lighting conditions, the loss of an hour a week per employee who is in head office, all of these things add up to rather enormous business problems for the WCB in giving service to our customers and access to those with disabilities.

That's just a brief summary.

Ms Angove: If I can just show you this, it's part of your handout; it's near the end of your package. This will give you a sense of the service delivery impacts as a result of gaining one hour per employee per week with reduced elevator waiting time only. This does not speak to the efficiency gains as a result of reduced down time. This is just elevator waiting time.

The weekly service impact equivalent of one hour per employee per week translates into an additional 600 calls that our telephone inquiry clerks can make, an additional 780 claims that can be adjudicated by our claims adjudicators and an additional 800 workers who can be interviewed by our vocational counsellors. Our revenue staff can respond to 48 more letters, 40 more calls etc. That gives you some indication of the service delivery impact of working in a facility that has been designed to accommodate the operation.

1550

Mr Duignan: Thank you. You indicated earlier that—

The Chair: I just want to remind you, Mr Duignan, that Mr Hayes and Mr Fletcher are waiting. They'll have to divide up whatever time is left.

Mr Duignan: Okay. Besides, as I indicated, being a good investment from the fact the WCB will make about \$300 million over 20 years on the initial investment, it also means this new building is designed to meet the injured workers' needs, which the existing buildings do not right now, plus it's to be handicapped-accessible as well.

I notice that the land belongs to the CBC and that you will be leasing the land from the CBC and I was wondering what the land lease cost is per square foot.

Mr Glenn Cooper: It's approximately \$5.25 a square foot.

Mr Duignan: Okay, and the \$25 you're talking about includes that \$5?

Mr King: That's correct.

Mr Duignan: I'll yield to my other colleagues.

Mr Hayes: The workers' comp board has been in the building on Bloor Street since what, 1972?

Ms Angove: Since 1974.

Mr Hayes: Okay, thank you. A lot of these deficiencies you pointed out—naturally times have changed, the workloads have increased, there's no question, with the new technology

and things of that nature. But obviously someone just didn't come along even in 1989 or 1990 and say, "Hey, let's do something new and let's go to a new building." You must have had a lot of complaints from the clients and from the workers and from the management side of deficiencies. You've pointed many out here. This must have gone on for some time. Can anybody indicate to me how long ago this planning process was actually started as a result of finding all the deficiencies in the building?

Mr King: From the point of view of the corporate board, I believe it was indicated in earlier information that in late 1989 people started to look at it. But I think they started to look at it more because the lease in the existing facility was to be up in 1994, and what options were there? Was 2 Bloor an option?

I believe it's probably true, although I wasn't there, that the board itself did not look at 2 Bloor in terms of its impact on service delivery until after this detailed study of where the board could end up being in 1994 was done and an impact analysis had been done about the service delivery.

I want to respond just very briefly on service delivery. Service delivery has been a question at the Ontario WCB for as long as I have known the institution, which goes back into the 1970s. I don't believe it's something that was invented in recent years, the service delivery problem.

I would argue in fact that the steps that are being taken by the chair on appointing a task force and saying, "Help us with the service delivery problem," with the action plan that resulted from that task force report, which has got the place energized now, the stabilization I have been able to create over the past year and a half of the workforce, the attempt to maximize the use of the technology that was introduced, the correcting of errors which may have been made as the board moved from the old entrepreneurial model into modern managed business, all are having an impact on service delivery.

I sat in front of the other committee of this Legislature which was grilling us about service delivery in April 1991. I sat before the same committee some weeks ago, and it was a different point of view on the part of those people who had looked at the service delivery. They congratulated the board for the things we have done over the past year and a half to improve service delivery. It is my opinion that by giving us the tools of a different facility, we will make another huge increase in service delivery improvement.

Mr Hayes: I know you've touched on this but, in my opinion anyhow, we've heard a lot of simplistic or irresponsible estimates that have been thrown out into the public, and it's been in the media several times about the \$380 per square foot that it's going to cost. I would really like any one of you here, for the record and to make it clear—we want to know exactly what it's going to cost and how this individual and others have come up with this \$380 per square foot, which I think is really unfair to the board. It's irresponsible to give that kind of message out to the public.

Mr King: I was very disturbed to see people equate the highest possible estimate per square foot for building a building with what you can go out and rent a building for. That was the direct comparison that I saw in the media. I believe the comparison was that the board is picking up space at \$380

a square foot when you can rent space for \$20 a square foot. Equating the cost of building per square foot versus the cost of the rental is a rather unfair comparison.

The cost to rent a space for 20 years right now may be lower than originally predicted in 1990, but the cost of building would be \$120 a square foot. I believe what someone had done was to take the highest estimate of cost of the building and divide it only by the 525,000 that the WCB are going to occupy, rather than the 755,000 that the total space of the building involves. That's where the mathematical error had arisen. Why the error in equating the cost of building versus the cost of rental occurred, I don't know.

The Chair: Excuse me. Did you say—how much?

Mr King: Some \$120 a square foot construction.

The Chair: What figures did you use to come up with \$120? What did you divide into?

Ms Varnam: That is based on the gross buildable area of the building, the parking and the shared common areas divided into the total project costs, the current estimate.

The Chair: The auditor has a question.

Mr Erik Peters: I just have a very quick question. You gave us the number of \$180 million.

Mr King: It's \$177 million, to be precise.

Mr Peters: Over 755,000 square feet, or is 755,000 square feet not the square footage you are talking about? Because on that basis, you're looking at \$240 a foot.

Ms Varnam: That's if you're only looking at the cost of the building, but there is also a parking garage and shared common areas and facilities included in that, so the building cost on the gross buildable area is approximately \$120 a square foot.

Mr Peters: But to be comparable, to just ask you the question, the \$20 a foot you're dealing with is for office space. Therefore, are you now relating total footage to build garages and parking spots with square footage per office?

Ms Angove: That's included in your typical net rent anyway. That would be included in it. But the problem with this comparison is that net rent is paid yearly. You pay \$20 per square foot per year. They were comparing that annual cost to the cost for investment over the life of the investment, and you can't compare an annual cost to a one-time cost. That was the problem.

Mr Peters: I totally accept your point. I was trying to reconcile the numbers you have given us to come to the \$120. That's what I was trying to help the committee with. I still have trouble with that.

Ms Angove: The \$120 was being compared to the \$380.

The Chair: I think there's quite a discrepancy there. We've got 755,000 square feet divided into \$180 million. That's almost \$240 a square foot.

Mr King: That's the usable office space.

The Chair: Even if we include the garage, does that take it down \$100 a square foot?

Ms Varnam: The garage is approximately 400,000 square feet and the shared common areas and facilities are about 45,000 square feet.

The Chair: But surely it doesn't cost as much to build a garage as it does the office.

Interjection: More.

The Chair: It costs more?

Ms Varnam: More, yes.

Mr Joseph Cordiano (Lawrence): Could I ask what the actual cost for the garage is?

The Chair: Excuse me. I promised Mr Hayes—
Interjection.

The Chair: I'm going to give Mr Hayes added time, but go ahead, Mr Cordiano, very quickly.

Mr Cordiano: Very quickly, what would be the costs of the garage and the common areas on a per-square-foot basis?

Ms Varnam: I don't have that information available, but I can get that answer for tomorrow. I don't have it off the top of my head.

1600

Mr Cordiano: That would significantly increase the cost of the construction, to bring it up to \$180 million, because that's the discrepancy we're talking about, right? Okay.

Mr Hayes: I think what I'll do, so we can allow these people to respond, is give them time and not run our time out; in all fairness let them respond. I will pass on to my colleague here to ask a question.

Mr Derek Fletcher (Guelph): Just a couple of questions. I need the information. How long have you been at the Bloor Street location?

Ms Angove: Since 1974.

Mr Fletcher: In that time have you done renovations to upgrade the facility?

Ms Angove: Yes, we have done some leasehold improvements. To the extent that we could improve the workspace we have. As I mentioned, some of the problems we were having with the electrical system—

Mr Fletcher: Who paid for that?

Ms Angove: The WCB, of course.

Mr Fletcher: Not the landlord?

Ms Angove: No. We relocated the computer centre and we relocated the print shop, the microfilm function. Now, some day-to-day work obviously Bramalea has done, as it does in any building just to maintain it. They have paid for some of that, but in terms of improving our own space, WCB obviously has paid for it.

Mr Fletcher: As far as the Bloor Street location is concerned, could you get a guarantee of a fixed rate over 20 years?

Ms Angove: Yes, we did when we moved in.

Mr Fletcher: When you first moved in?

Ms Angove: Yes, we did.

Mr Fletcher: And it was at \$20, was it?

Ms Angove: No, it wasn't.

Mr Fletcher: What was it at?

Ms Angove: Do you know, Vivian? Is it \$11?

Ms Varnam: On the initial lease, the initial space, just over 200,000 square feet, it was \$7 a square foot.

Mr Fletcher: Okay, that was then.

Ms Varnam: Yes.

Mr Fletcher: As far as the investment you're making at Simcoe Place is concerned, the best time for building or to do something like this is during the time of low interest rates and competitive construction costs. Is that what you've found?

Ms Angove: Yes, the consultant firm Drivers Jonas has told us that construction costs are as low now today as they have been since 1982.

Mr Fletcher: Okay. So according to those rates, you could be saving a lot of money doing it at this time, rather than when the market starts to rebound.

Ms Angove: Yes, absolutely.

Mr Fletcher: Just on that alone, how many jobs are going to be created by building this facility? Do you have any idea? We're looking at construction jobs obviously. Hopefully it won't raise your clientele.

Ms Angove: About 300 to 400 construction jobs and obviously many, many related jobs in manufacturing etc.

Mr Fletcher: In the Toronto area. I've always been one of those people who have said, as far as renting is concerned, you're always throwing money away and you don't see anything at the end of it. At the end of the 20 years, what am I going to see as far as the WCB is concerned with this building? Am I going to see that you own a building or 75% of it?

Ms Angove: Yes.

Mr Fletcher: And that's going to be yours.

Mrs Marland: No, the people of Ontario's.

Mr Fletcher: So on the market that becomes an asset as far as everything else is concerned?

Ms Angove: An asset of the investment fund.

Mr Fletcher: Right. Okay, thank you.

The Chair: Any other questions. Mr Duignan, we have some time left, if you wish, or Ms Haeck.

Ms Christel Haeck (St Catharines-Brock): In the time that you have rented space at 2 Bloor, obviously your office staff increased, at least I would assume, somewhat substantially over the almost 20 years you've been there. Has it doubled? Does someone have a handle on that?

Ms Angove: In terms of number of staff we're at? Yes, it's close to double; not quite, but close. We now lease over 400,000 square feet at 2 Bloor and in some offices very close to that location.

Ms Haeck: With your long-term projections over the 20 years, are you seeing yourself—because obviously the range of technologies you're using—again having to increase staff at all? Obviously you will have to to some degree, but in the same magnitude?

Ms Angove: Did you want to answer that, Brian? No, we don't, but we have built a number of flexibilities into this lease so that if we need to lease additional space, we have the option to do that or if we decide it makes sense to decentralize some of the functions, we can sublet some of the space at an attractive rent. We've covered both sides of that.

Ms Haeck: I know there definitely is a concern among the business community. I've had a small employer come in

and indicate his concern that he was seeing his rates go up and he felt he was providing you with the means by which you were going to build this—

Interjection: Ivory tower.

Ms Haeck: Ivory tower, yes. I was trying to avoid that, but I guess that's what the constituents are to some degree saying. The thing that really does concern me is that in looking at some of the briefing documents, you get a sense that you've tried to be responsible in the financing of the building, but that's not a message that really has gotten out. In fact, even the message about your moving has been relatively low-key until quite recently. Obviously some people in the ministry have known, but it has not been widely known and you haven't necessarily communicated that well. That would be one comment I would make to you. How would you see yourselves being able to communicate better with some of the employer groups, particularly to assure them that their rates are not going to skyrocket as a result of this building?

Ms Angove: I think it's a very good point. We have had very specific briefing presentations to the employer community over the past two months. They have been able to come in, they have received a very similar presentation, they've been able to ask their questions and we've addressed their issues and concerns personally.

Ms Haeck: You've had over two years to get to this point. How much more planning are you going to have to do? Is this basically done and the shovel is going to go in the ground? Obviously, there is still a certain anxiety about what all this is going to cost. Usually there's a question mark about cost overruns and all those kinds of things. Have you got a pretty firm price?

Ms Angove: Yes, we do.

Mr King: We have a person specifically monitoring all the costs of the project on a day-to-day basis, someone who's working for us in a dedicated way. We're very aware of all of the costs.

Ms Haeck: And it's on track or coming in even better?

Ms Angove: Yes. It has come in much lower than we originally anticipated.

Mr Callahan: You've indicated that the land is leased and you own the building, or this numbered company owns the building. What is the life expectancy of that building?

Ms Angove: I understand it'll be 50 years, something like that.

Mr Callahan: You understand? Is there anything written or is there any professional opinion given as to the life expectancy of that building?

Ms Angove: I should have someone qualified give you that answer, so let me ask Drivers Jonas exactly what they think the life expectancy is. I understand it is at least 50 years; it may be longer.

Mr Callahan: No, no. Has that question never been asked or considered before, what the life expectancy of the building is?

Ms Angove: The reason I say it's 50 years is because we have a 20-year fixed lease with three options to lease for 10

years beyond that, so I know it's at least 50 years. It may be well beyond that.

Mr Callahan: You're not answering my question. We've heard Mr King say this is part of your investment portfolio. Now, you don't own the land; you own the building. I would have thought that because it's part of your investment portfolio, that question would have been asked a long time ago as to what the life expectancy of that building would have been in terms of deciding whether or not it was a good investment for your real estate portfolio. Am I correct that it's never been asked?

Mr King: I cannot answer that question today. I don't have that information.

Ms Angove: It may have been asked by the investment fund and we just don't know the answer.

Mr Cooper: I'd like to add that the projections which have been done from an investment point of view are based on the first 20 years of holding that investment. If you look at today's value of money that you're going to receive 21 or 22 years from now, it really has no value. Therefore, we ignored any return on value after the 20th year. We've only looked at the first 20 years' return on value.

1610

Mr Callahan: You're using the pension funds of the people today, tomorrow and in the future in terms of their benefits to be paid out to them. You're investing those in a commodity but, first, you don't even have any idea how long that building is scheduled to last and, two, it's a lease arrangement. I could maybe have seen this as a wise investment if you owned the land, but you don't own the land; CBC owns the land. Any potential increase in the value of this commodity, in terms of those pensioners, has been lost.

You've got a building that's going to depreciate over God knows how many years—you don't know how many years. I find it really incredible when you're making an investment like that, which is risking pension dollars. I'd hate to think what's going to happen down the line if this asset is depreciating. It seems to me that all that's been looked at by the Workers' Compensation Board is, first, "Let's have new accommodations, new digs, for ourselves that will meet our needs to the nth degree unlike any other department in the government, even though we're in an economic bad time." Second: "Let's not buy the land. Let's lease it and just make sure we can get \$20 a square foot for 20 years, because that's a big investment."

I like to think that every member of this Legislature of whatever political stripe is more concerned about the question of protecting the pensions of those people who have been injured and the employers who paid for those pensions to ensure that their workers, who are denied the right to sue now and have been for a considerable period of time, are protected. I'm sorry; I don't mean to be pejorative, but I just get the feeling that Workers' Compensation has just decided, "Well, so what?" If I'm wrong, then I would have thought you would have looked at the question of what you're going to have at the end of 20 years in terms of an investment.

Ms Angove: We have looked at that.

Mr Callahan: No, you haven't. You told me you guessed it was 50 years. It tells me that you have no—

Ms Angove: I said it was at least 50 years.

Mr Callahan: It tells me that you have not done your homework, that you do not have, nor have you ever had, a professional, qualified statement of how long that building becomes an asset. If that's the case, then I feel you've done exactly what I've suggested to you.

I don't like to be critical of you people, because you're obviously working in a system where there are others responsible for it, but it seems to me that the pension rights and the pension protection of these people should be your primary concern, not the question of whether or not you can get digs that are better than anybody else's. At a time like this, I can't understand why you would even consider it.

I'd like to know what the cost of getting out of this thing is. I want those figures, and hopefully you can have them for us tomorrow, so we can look at them in terms of what the overall saving you say is in comparison to the overall cost of getting out. I don't think the taxpayers in Ontario can afford a Cadillac; I think we need a Volkswagen right now. We'll have to be satisfied with a Volkswagen.

Mr King: In brief response to a question about the future of the pensioners being in jeopardy because of this investment, might I suggest that I was the inheritor of a \$10-billion unfunded liability. I didn't invent that, nor did the present Workers' Compensation administration. I believe if you look at the record and if you look at what puts in jeopardy the future payments to pensioners, you might look to the preceding 20 years and see where the unfunded liability arose.

Mr Callahan: Mr King, I'm perfectly aware of that, and what you say is quite true. But the fact is that because 20 years have gone by with an unfunded liability, it doesn't mean we have to add more to it, with greater uncertainty to the benefits those people are expecting to receive, having been denied their rights to sue in court and depending upon a system that—I don't think there's a member of the Legislature of any political stripe who would say it is one that works very well.

I know you people have worked hard at trying to bring it along, but the WCB was the first thing I heard about when I came down here. I think each and every one of us, as ombudsmen in our own offices, finds the difficulties we have and the frustrations we have in trying to get a file pulled so we can deal with it for these people. For God's sake, if they have to put up with that antiquated system, I don't want somebody to have to believe that their pension rights down the line may be denied them because of poor investments by the WCB.

I have to tell you, on everything you've told us today, you haven't given me one good reason why you should invest that kind of money in a building at a time when people in Ontario are losing their homes, they can't pay their taxes. And you people are prepared to spend \$200 million on a palatial mansion to house WCB. Well, I'm sorry. This is one member who can't support that.

Mr King: I'm not too sure one should put any seed or germ in the mind of people receiving pensions from the WCB, as you seem to have done, that this particular investment puts their pensions at risk.

Mr Callahan: I'm not trying to do that, but there's the potentiality. You don't even know what that asset is worth, how long it's going to be worth something; it's going to be depreciated right off the books. If you wanted to go out and do something, why didn't you buy the land, invest in real estate, and maybe 20 years down the line or 50 years down the line you'd have something? That's a funding of a liability. You haven't funded it. You're building a building; the building depreciates. What's the value of it in 20 years? How long is it going to last? It's got a lot of elevators, I understand, but that's about all I can figure.

Ms Angove: I think you will find that the consultant's report will confirm that in 20 years the return on investment is very favourable for the WCB, and beyond that, that return improves over time. It does not depreciate.

Mr Callahan: Can you produce that consultant's report tomorrow. I was surprised that when I asked you the question of how long this building is going to last, you just gave us a figure, "Well, about 50 years." You didn't tell me you had a report.

Ms Angove: I said I can speak to 50 years because I know that's our option to renew the lease.

Mr Callahan: I'd like to see that consultant's report tomorrow as well.

Ms Angove: Fine.

The Chair: I think what I'm going to have to do to make sure everybody gets fair time is go around again. We're going to have Mr Cordiano conclude the Liberals' time, then we're going to go to the Progressive Conservatives, then I'm going to give the government members another block of time. I'm going to make sure that everybody gets their questions on. So with the assistance of the committee, Mr Cordiano.

Mr Cordiano: I will endeavour to be brief. I just want to recap what I think is the fundamental focus of the motion that was brought to this committee in order to investigate this question, and that is coming back to the basic concept of value for money and the decision that was taken largely being an economic one.

Can this decision be justified in today's economic environment, given that the decision was probably initiated in a period, 1989 and 1990, when the economic conditions were quite different from today, economic conditions that would have perhaps favoured this kind of decision back then, given the rental rates and given the kind of leasing arrangements that could have been made back in 1989? Looking forward, this kind of investment probably looked highly attractive at that time.

It's wise to say that given today's economic circumstances and the state of our economy locally, which is quite important not only to this province but perhaps to the whole country, we as concerned legislators would like to have, without any doubt, certainty that this decision is in fact a good economic decision based on some sound economic principles. We're not convinced of that. I don't think anyone is.

Ms Angove: Given today's economic climate, this is a better deal today than it was in 1989 or 1990 simply because construction costs have gone down so much in the last two years that it costs less to build a building.

Mr Cordiano: Well, that may be correct, but there are certain other factors to be taken into account which I think you've overlooked in making this decision. Construction costs may be lower, but the whole cost of a lease versus construction costs or versus whatever other decision you wanted to make—we're not comparing the cost of construction today to the cost of construction in 1989 and saying, "This is a good decision, given that narrow framework." We're comparing today building versus leasing an existing facility.

You have indicated that other conditions have impinged on your decision, and now we need to verify that. We also need to attach some dollar figures and perhaps something that cannot be equated with dollars: whether that's a priority in these difficult economic times. Because against the backdrop of fulfilling the requirements of your space needs, we want to ask ourselves, could you in fact lease the existing space with the variety of other variables attached brought into that equation? That is with the understanding that those priorities may not be met, but those priorities have to be set against the backdrop of economic conditions. How much does it cost to make those priorities become a reality?

We think it's a question of reordering priorities—at least, I'm speaking for myself—and making a decision based on value for money, if you can lease existing space that almost meets your needs or comes close to that. If you can't, then what we're really dealing with is a costly decision versus a non-costly decision with all those other conditions attached to it. That's really, in a nutshell, what I think is the fundamental focus of this question.

1620

Mr King: I think if we start with one assumption, 2 Bloor was not considered by either the landlord or the tenant as being acceptable to our modern business needs. I think of the inability of that building to deal with the temperature, so that we have to move our computer out of it, and of the inability of that building to move people, to move our 150,000 customers. If we were to follow your scenario, I think that at minimum we would have to look whether there was another building in the Metro area which could serve our needs.

Mr Cordiano: Or several facilities. There are a lot of variables that can be entered into this equation. I think that it's always measured against priorities that you set for yourselves, which we may not even agree with you on. We don't have enough details. I'm glad you've agreed to bring forward all of those detailed studies that were done for you and the parameters that you set in place for making this decision and the kinds of priorities that you've listed, which we have some idea of, but what all of those things mean in terms of dollar figures and value for money is the way in which this committee operates. We're doing an audit of your decision on a value-for-money basis, which is entirely the way in which we operate on an ongoing basis on this committee. That's what we're looking for.

Ms Angove: Can I ask you that in looking at value for money you recognize that occupancy cost includes not only net rent but the cost associated with working out a facility that cannot support the operation, the cost associated with

waiting for elevators and the cost associated with downtime of equipment? If you include those costs and compare—

Mr Cordiano: Let me just interrupt you. I agree, and it may be entirely appropriate that you need to move. No one is going to question that on this committee. That's not really the question here. The facilities you're at now are not adequate. We all recognize that. The way that your existing facilities present themselves is not adequate. I will speak for myself. The experiences of my constituents will indicate that, and what you're presenting as fact we'll take as fact in regard to that. But I think it's also important to understand that you could make repairs to the existing facilities. You're saying that that's not feasible.

Ms Angove: You can't add elevators.

Mr Cordiano: That's fine. I can understand that and you will bring forward studies that indicate that, or at least cost estimates to prove that fact and validate that. You will also bring forward other information which will validate what we're saying. To this point, we have none of that information and I don't think the public does either. You're simply saying, "Take it at face value that this decision makes economic sense." There are too many doubters out there, starting with this committee.

The Chair: Okay, we're going to continue with the rotation.

Mrs Marland: Ms Angove, who is the consultant to whom you're referring when you say you will bring that report tomorrow morning?

Ms Angove: I'm sorry; which report are you referring to?

Mrs Marland: In answer to Mr Callahan, you said you would bring the consultant's report with you tomorrow morning. I'm asking who that consultant is.

Ms Angove: Drivers Jonas.

Mrs Marland: Okay. Can I be clear? The total square footage of this building is 755,000 square feet.

Ms Angove: For the office space.

Mrs Marland: The gross leasable area is 755,000 square feet. How much of that is the WCB going to occupy?

Ms Angove: Seventy per cent; 525,000 square feet.

Mrs Marland: Okay. Today you do not have any leases in hand for the balance of that 30% of that building?

Ms Angove: That's being handled by the developer, so I really can't speak to potential tenants it may be negotiating leases with.

Mrs Marland: Okay. Are you telling this committee that you're not responsible for the balance of the leasable space in this building?

Ms Angove: Certainly we, as a tenant, are not.

Mrs Marland: How about you as owners? That's what we're interested in here, because you're spending this money buying this building.

Ms Angove: The investment fund is exposed to the spec space, 75% of it; you're right.

Mrs Marland: So are you saying, then, that the investment fund will be liable for the balance of the space that you're not using if it's not rented?

Mr King: We have done projections about the return to the investment fund under various scenarios regarding that speculative space.

Mrs Marland: Excuse me, Mr King. I only have a few opportunities here to ask questions, so I want to be very specific.

Mr Hayes: You should give him an opportunity to answer, Margaret.

Mrs Marland: You have a building that's 750,000 square feet, more or less, and your use of that is 70% of that space. You're one of three parties to building this building, I understand?

Mr King: Yes.

Mrs Marland: Your press release, by the way, says the Toronto-Dominion Centre. Did it mean the Toronto-Dominion Bank?

Ms Angove: Toronto-Dominion Place.

Mrs Marland: Is the Toronto-Dominion Place the Toronto-Dominion Bank?

Ms Angove: Yes.

Mrs Marland: Okay. So if the balance of this brand-new building—30% of this brand-new building—isn't leased, would I be correct in assuming that the liability for the cost of that unleased space will fall on all three parties?

Mr King: That's correct.

Mrs Marland: So you have a liability for 30% of this building at a time when there is a tremendous surplus of office space in downtown Toronto. Are you not concerned about the fact that you may have difficulty renting the balance of this building?

Ms Angove: Only if it's not rented for 20 years. Drivers Jonas has confirmed to us that when it is rented, the investment fund will gain the benefit of those healthy rents during the time that it is rented. They also don't think it will be problematic to rent that space simply because no new office space is being built in downtown Toronto. The trend is to move grades B and C buildings to grade A buildings, which is what this building is. So they are very optimistic about the leasing feasibility of the spec space.

Mrs Marland: You've talked today about the rent, the \$25-per-square-foot rent. Is that dealing totally with the building cost or does that guarantee that rent will be applied to the land lease as well? I'm glad Mr Turnbull's arrived because he's the expert in commercial real estate in our caucus. But you don't own the land, so I assume you have a land lease.

Ms Varnam: That's correct.

Mrs Marland: Is this guaranteed rent on the land as well as on the building?

Ms Varnam: It includes the cost of the land lease.

Mrs Marland: So your land lease is locked in for 20 years?

Ms Varnam: Yes.

Mrs Marland: Go ahead, David.

Mr Cordiano: Let me—

Mrs Marland: I'm just yielding to Mr Turnbull.

Mr Cordiano: We're just having some trouble hearing.

Mrs Marland: I'm sorry. I yield to Mr Turnbull.

Mr David Turnbull (York Mills): Let me ask you, how much did you pay for this building?

Mrs Marland: They paid \$180 million.

Mr Turnbull: You paid \$180 million and it's 700,000 square feet?

Mr King: It is 755,000.

Mr Turnbull: So how much is it per square foot? Have you done the calculation on this?

Interjections.

Mr Turnbull: How much is it per square foot?

Ms Angove: It depends which part you're looking at. Vivian, why don't you explain it?

Mr Turnbull: Take the whole building, because you've bought it.

Ms Angove: The office tower, the parking and our share of common areas.

Mr Turnbull: I'm not talking about the parking; I'm talking about the office tower.

Ms Angove: We own part of the parking. We're paying for the construction of the parking.

Mr Turnbull: Give me a number. How much is this per square foot?

Ms Varnam: When you take the gross buildable area of the tower, the parking and the shared common areas and facilities, it's \$120-per-square-foot construction cost.

Mr Turnbull: Is that finished? Is that with leasehold improvements or is that just the raw construction?

Ms Varnam: That's the shell.

Mr Turnbull: How much do you propose per square foot to finish it off?

Ms Varnam: I don't have that offhand. We do have that information. I can have it tomorrow.

Mr Turnbull: Is this a land lease?

Ms Varnam: It's a land lease.

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Mr Tilson: Considering the amount of equipment that you're going to be putting into that building, that's a very relevant question.

The Chair: You can only have one member of the committee at a time holding the floor and you can only have one set of questions being asked at a time. I don't mind members helping each other out. Mr Tilson, if you—

Mr Tilson: Yes, Mr Chairman, I think the question that Mr Turnbull asked is quite relevant, because of your reason for moving there—you've talked about cables and cost of equipment. I think we need to know that. If you could have that available for us tomorrow, we'd appreciate it.

Ms Varnam: Yes, I've made note of that.

Mr Turnbull: What alternative buildings did you look at by way of leasing?

Mr King: There was a lengthy explanation before you arrived regarding a public tendering process that took place in 1990, some 34 different proposals being brought forward, it being short-listed down to four proposals and the present one

being chosen. We had previously volunteered to bring information tomorrow on the nature of the proposals that were brought forward in 1990 for a new facility for the Workers' Compensation Board.

Mr Turnbull: I would suggest that at these sort of rates you could have bought outright, including the land and buildings, in other locations.

Mr King: What you might be able to negotiate today probably does differ from the 1990 negotiating situation.

Mr Turnbull: The year 1990 was already in the recession. Real estate was already in the dumper at that point. I'm a commercial real estate broker and believe me, I know.

Interjection: Trust me.

Mr Turnbull: It was very low. We'd certainly trust us a lot more than your government. How on earth could you pay that kind of money when there are all kinds of buildings available for less money and without land leases?

Mr King: The documentation supporting the proposals that were brought forward in 1990 has been promised to the committee.

Mr Turnbull: I intend to scrutinize that very carefully, because that's a ridiculous price.

Mr Tilson: Mr Chairman, I have a question. How much time do I have?

The Chair: There are approximately 28 minutes left and I've got to ensure that the government members get at least 20 minutes.

Mr Tilson: Mr Chairman, a question I have to the clerk or to yourself as Chair: There have been comments made by Mr King and others that their legal opinion felt it was unnecessary to obtain an order in council pursuant to section 64 of the Workers' Compensation Act.

The Chair: Yes, I was curious about that myself.

Mr Tilson: I've read that section and the section is quite clear, I believe, just looking at the wording of it, and I don't imagine that the board representatives, the way they've been reacting this afternoon, are going to provide us with their legal opinions. If they are that's fine, but—

Mr King: I've already volunteered that.

Mr Tilson: Okay, that's great. Then we'll have our legal opinions tomorrow. Mr Chairman, does this committee have access to legislative counsel, that we can receive an opinion on that issue from the committee's point of view?

The Chair: We'll have the clerk answer that question. The answer is yes, and we're going to get an explanation as to how it works.

Clerk of the Committee (Ms Tannis Manikel): There are various lawyers attached to the legislative research service, and in the past on other committees I've gone and asked them to provide legal opinions to the committee. If that's this committee's request, I can do that as well.

The Chair: Yes, I think we can start there if it's the wish of the committee.

Mr Tilson: Do you require a motion, Mr Chair?

The Chair: We usually work by consensus. Let me put it this way: The public accounts committee has asked the board

representatives to bring forward their legal opinions which would indicate that they did not have to deal with section 64 or that they were somehow exempt from section 64 or that whatever they were doing did not fall under section 64, any one of those three. So they're going to bring forward their legal opinions.

Mr Tilson wanted to seek assistance and get outside legal opinions. We have lawyers in the legislative library research department we can call upon to get legal opinions and it doesn't cost us anything. They're already on the payroll.

Mr Hayes: I'm sorry, Mr Chair. Don't we already have three legal opinions? Did I hear that correctly?

Mr King: Two, and possibly three.

Mr Hayes: They could bring those opinions forward.

Mr Tilson: To be fair to my inquiry—

The Chair: Yes; please go ahead.

Mr Tilson: —I did not ask for outside legal opinion. I'm aware that there are legislative counsel available to committees. My question is, how does this committee have access to those? Do we simply ask them?

The Chair: We just ask them.

Mr Tilson: I assume there's no problem. It's not going to cost anything further to provide that opinion?

The Chair: I wouldn't think so.

Mr Tilson: Do I assume the consensus is that the clerk can request legislative counsel to provide that opinion?

The Chair: Unless I hear some objections.

Mr Duignan: Will legislative counsel be making the decision based on the same information that was available to the two, possibly three, other lawyers before?

The Chair: I don't know what information was available to the other lawyers. That's a question I'm not able to answer at the present time.

Mrs Marland: It's right here in their minutes. It's right here.

Interjections.

Mr Cordiano: Perhaps I could clarify since I was in the chair at the time. I think it was made clear that all the relevant information and any information leading up to those decisions would be made available to the committee. Therefore, unless we get something different, you would make available all relevant information for those kinds of opinions to be gathered at this point.

The Chair: Maybe your request is premature. Would you want to wait until you saw the other documentation before you—

Mr Tilson: Mr Chairman, all I can say is that I've read section 64, which I think is available at the front desk—

The Chair: Yes, we have copies.

Mr Tilson: You could read that and you will see how clear I think it is. I'm in doubt whether or not those opinions are correct.

The Chair: I appreciate that.

Mr Tilson: It may well be that they have their opinions based on a set of facts, but the question is, has section 64 been complied with? I believe we're entitled to receive our

legal opinion, not necessarily the opinions from other outside sources.

The Chair: That's a fair request. Requests such as that have been made before. We'll try to get consensus.

Mr Farnan: I'm not disagreeing, but I'm just going to move deferral of the request until such time as we get the information that's brought forward by the delegation.

Mrs Marland: May I speak to that? Mr Chairman, am I correct that we only have tomorrow to deal with this matter?

The Chair: Let me put it this way: We have four weeks set aside for the work of this committee to do a number of things. Some of the items we have on our agenda may not take as long as we think at this stage. I believe we have flexibility in the four weeks that have been allotted to us to come back to this subject if we believe there's a need.

Mrs Marland: In fairness to the committee, in answer to our questions this afternoon, Mr King suggested there had been more than one opinion on this matter. He suggested that the former chairman had received an opinion. In the minutes of the board's own meetings on February 1, 1991, as I referred to earlier, Mr Atkinson from Aird and Berlis gave his opinion and gave the answer as it pertains to the provisions of the Pension Benefits Act.

I think what we're asking is simply that while we will have further information on Mr Atkinson's opinion from the WCB tomorrow, and perhaps another opinion it's going to bring, what we are requesting is that legislative counsel have the lawyers look at their interpretation of section 64 as it pertains to the argument that the WCB is bringing. Frankly, I would like to have the benefit of our own legislative counsel, who are independent of the WCB.

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The Chair: I appreciate that request. I'm not even sure that if we make the request immediately, even today before 5 o'clock, we'll be able to get an answer by tomorrow morning. That may not be possible.

Mr King: Can I give you some assistance in answering that?

The Chair: Please.

Mr King: As Ms Angove has said, there are four volumes which go to make up this particular agreement and I don't believe it feasible to ask any lawyer to give you an opinion based upon the amount of documentation in a hurry. In other words, I'm trying to help you understand that even if you gave it to legislative counsel tonight, all they would do, at best, I think, would be to get a verbal explanation of what the arrangement is, because they simply couldn't read all the documentation in a hurry.

The Chair: Mr Farnan, did you want to conclude with something else, or is your point concluded?

Mr Farnan: I think the point is that I think all members of the committee would probably not have objection to the request. I think the timing, as you pointed out, Mr Chair, is appropriate, and I don't think a day's delay and we see what comes forward tomorrow—we can make a deliberation on this tomorrow.

The Chair: Are you in concurrence with that?

Mr Tilson: I have no problem. There may be some doubt as to what we're even going to receive tomorrow. The board representatives are going to seek counsel on what they will even produce.

The Chair: Okay, that's fine. That's a subject matter we'll come back to tomorrow. I think everyone understands what we're trying to get at. My question would be different in that regard, but I'm going to hold my question until the government members have concluded their questions. I'm assuming that, Mr Tilson, Mr Turnbull, Ms Marland, you're finished?

Mr Tilson: I have one further question, if I have time, Mr Chairman.

The Chair: Okay, one last question, very quickly.

Mr Tilson: Mr King has made some comments that one of the issues they're proud of on this is that it is a good investment. I have concern with that statement, particularly when just very recently the Workers' Compensation Board had a major loss of over \$100 million when it transferred \$400 million to the Euromart to be placed in foreign stocks and bonds. There was a loss on that. Had the fund kept the money in Canada and invested in low-risk Ontario or federal government bonds, it would have made at least \$100 million in interest, but that wasn't the case. This is a report I have from the Globe and Mail of December, which I'm sure you're aware of.

Having said that, obviously, the investment abilities of the Workers' Compensation Board in the past have been questioned. I assume you have had someone advise you with respect to the investment potential of this area. You shake your head yes. When you're providing information to us tomorrow, can you provide us with a copy of that opinion?

Mr King: Yes.

Mr Farnan: I suppose the people of Cambridge would want me to be quite direct and quite simple in addressing this question to you. It's true that you're leading off this initiative at a time of recession, and you've stated that it will improve the board's efficiency. I'd like you to answer this question fully for my constituents. Is it possible that this new building will (a) save the board money and (b) improve efficiencies? I'm sure my constituents want to know the answers to those two questions.

Mr King: Number one, we need a new facility in 1995 when the present lease at 2 Bloor Street East ends up. We have to have a place to do our business. We may be able to get short-term rental of space broken up into smaller portions than the 525,000 square feet around the city of Toronto. That will decrease our efficiency. That will make our service delivery worse rather than better.

The investment, if it isn't made, simply means that we find a different place for certain investment dollars of the WCB. They would not get as great a return as they would in the Simcoe Place development.

From the tenant side, as I've already described, we may be able to get short-term rent at less cost than the approximate \$25 a square foot guaranteed for 20 years that's in this deal. It would fractionalize our service and make our service worse. So in simple answer to your question, the present plan will

improve service, it will not put the board at financial jeopardy and it will improve the board's investment performance.

Mr Farnan: Some of my friends in the construction industry are certainly interested in this particular project. Those whom I've talked to have talked in terms of the creation of potentially 300 to 400 construction jobs. Would you elaborate on the potential for job creation with this project, please?

Ms Angove: In speaking with the developers, they have confirmed that is the number of construction jobs that will be made available in constructing the base building. Certainly, there will be additional jobs that will be created as a result of finishing out the space. I'm sorry; I can't give you the numbers associated with that. There will also be a number of manufacturing jobs that will be supported by the fact that we are purchasing materials to construct the building. So there are many, many areas where jobs will be created as a result of the project.

Mr Farnan: Critics have slammed the WCB for building at a time of recession. I think I tend to agree somewhat that being a time of low interest rates and having competitive construction prices would appear to make it a good time to build in actual fact.

Ms Angove: Absolutely.

Mr Farnan: Would you consider that a lot of the questions being placed to you today and maybe throughout this whole dialogue is an attempt to compare apples and oranges? On the one hand, you want to talk about comparative costs, and while you're talking about comparative costs on the one hand, you're talking about a building with grave inefficiencies, and you want to compare that with a new site where you're going to have great efficiencies.

Ms Angove: That's right. You're absolutely correct. The whole premise of relocating to a facility that has been designed to support the operation is to improve efficiencies. People have implied that the various upgrades we are incorporating in the building are luxuries. They are not. They are all being implemented in the project to support the operation. They are requirements of the WCB that may not be requirements of other government agencies, but they are specific requirements of the WCB.

They have all been thoroughly researched by design consultants. We've worked with the architects and we've worked with the mechanical, electrical and structural engineers on the project to confirm our requirements and to determine the best course of action to follow in determining what it is we need in the new building. So whether it's lighting or access flooring or elevators, it's all been done through consultants who are experts in the field.

Mr Farnan: I have one final question. This concerns the clients of the WCB. I think all members of the House are working with individuals whose lives have been put into a certain sense of turmoil. Indeed, we would want an efficient operation to be serving them. I'm concerned about the workers' stress within the WCB, I'm concerned about the case load and I'm concerned about the turnover of staff. Often when I phone or my staff phone, we find the file has been transferred to a new worker. Is this related to the building you're currently in? Does the turnover of staff at the

WCB have a direct relationship to the working conditions you're in at present?

Mr King: I looked over some figures on the number of injury claims that are being put in by Ontario Workers' Compensation Board employees. In fact, there is an increasing number of claims related directly to the facility we're in, the crowding we're in, the eye strain. As I recall, we project to the end of 1992, at the time I read the report in the fall, something like 80 claims for our own employees related to working conditions, so it is a very significant problem.

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Mr Farnan: If there is one thing that would benefit me in my job, and I'm sure a client of the WCB, it would be that when you enter into a relationship with the board you would have a case worker who will be there three months from now after you initiate your case, and hopefully might be there six months and nine months later. My experience is that in reality the turnover of case workers is so great that this, in my view, is the greatest inefficiency of all, because people have then to get up to speed with the client and the case they have to take on.

I believe whatever can be done to reduce staff turnover and to create efficiencies is a positive thing. Even if that costs a few dollars, I would not object to a few dollars extra being spent so that the clients, the Cambridge men and women who have to deal with the board, can be dealt with effectively.

From what I'm hearing, the rent will be comparable with market rents, will be in the range of market rents.

Mr Sorbara: Market rent is \$2 a square foot.

Mr Farnan: We're talking about a 20-year contract. So much that has been said on this issue is from outer space. We have a motion from Mr Cordiano which talks about a cost of \$380 per square foot. Obviously, if you want to do this kind of irresponsible throwing out of figures, you can't have a serious debate.

The reality of the matter is that if you mortgage your home over one year, you'll find that the square footage costs are astronomical, but we mortgage our home over a lifetime.

Mr Callahan: The Treasurer must have changed his view, has he?

Mr Farnan: Indeed, the question I would put to the delegation is very simple: For the constituents of Cambridge, will the rent represent, roughly, comparable market value rents over a long-range period? We're talking 25 years, I believe. Is that a reasonable assumption to make?

Ms Angove: Absolutely. In fact, over the 25 years, our rent could well be less than market rent.

Mr Farnan: The people of Cambridge will be delighted to hear that. I hope you're right.

Mr Duignan: Following my colleague's line of questioning, we've had some wild accusations made, especially from the Liberal opposition, that this move would cost \$380 per square foot. We know from our meeting here today that it's not going to cost anywhere remotely close to that. Strangely enough, I picked up a press release by the Tory opposition here today and there's some wild accusations in here too.

Maybe the vice-chair of the board could explain to Mr Tilson why the board can't stay in its present location and

why the present building can't be brought up to the same standards as what the WCB wants or needs.

Mr King: I think one thing that has been missing from the discussion today is that this was not a move invented by the WCB bureaucrats or the board of directors. In fact, we went out to the customers of the WCB. We talked to the injured workers, we polled the injured workers and the employers with respect to the location, with respect to the use of the present facility, and the response we got is that they wanted to be in the downtown area and they wanted to be near transportation. It isn't just the WCB bureaucrats.

Interjections.

The Chair: Order, please. I can't hear the answer.

Mr King: Sorry. I'm told it was not a poll, it was a survey. I'm not too sure.

Mr Tilson: That's only 8% of clients.

Mr King: The fact of the matter is that our present facility is totally inadequate for our business needs. It isn't so that we can have bigger offices. In fact, all of the executive at the WCB will be getting smaller offices, including the vice-chair of administration and the chairman of the board. It is to make the working conditions of the employees of the WCB tolerable and healthy; it is to improve the service delivery to the employers and the workers of Ontario; it is to become the most efficient and effective compensation board that we can become, and we cannot do that in our present facility.

Even the landlords of our present facility didn't believe they could provide a proper building for us because they didn't even bother tendering or coming forward at the time we asked for tenders on alternatives or on our future as a tenant. So for all the reasons we've discussed today, it's vital that we be able to provide the service that Ontario wants, and we need a new facility in order to do that; we need an alternative facility in order to do that.

Mr Duignan: Thank you for the answers. As he indicated earlier to an earlier question, the fact is that the return to the pension fund on this investment will be close to \$300 million over the 20-year span. Most important, it also improves the service to clients, which is badly needed. I have some other questions I want to ask; maybe I'll hold off till tomorrow. I will let my colleague ask his question.

Mrs Marland: Did you know the Treasurer tried to stop this?

Mr Hayes: He asked for a legal opinion. There's a difference.

Mrs Marland: He wanted to stop it, Pat. Maybe you didn't discuss it in your caucus.

Mr Hayes: Mr Chair, these seagulls over here just won't stop.

The Chair: Order, please. Ms Haeck.

Ms Haeck: There was a question raised earlier about the performance of your investment fund. All of us who have watched the business climate of late would say that probably there is a general downturn and not too many funds are doing well. What is the performance rating of your fund in relation to other funds out in the market?

Mr King: There had been an earlier reference to a presumed loss of money on the European market. In its last measured year, the Ontario Workers' Compensation Board investment fund measured in the top 7% to 8% of all investment funds of the same sort, so the return by the Ontario investment branch is to be commended. The return of the office tower down on Simcoe and Front is projected by independent evaluation to bring an anticipated average rate of return of 12.8%, which is a good rate of return today.

Ms Haeck: I have a question for the auditor, if I may ask him the following question: According to an auditing definition, what is an asset?

Mr Peters: It's any property, good or chattel that you own.

Ms Haeck: From one of the public accounts conferences I attended, I understand that assets get valued in different ways. Can you provide a valuation over a period of 20 or 50 years of the kind of building that the WCB is undertaking, as Mr Callahan had suggested earlier?

Mr Peters: Let me just answer, first, to the "you." As auditor I cannot, but there are appraisers who probably can provide such appraisals and can also provide projections, although the projections, as you would appreciate, are opinions.

Ms Haeck: Somewhat speculative, one might suggest.

Mr Peters: That's right. You might get a variety of opinions.

1700

Ms Haeck: In fact, evaluating something in a consistent fashion as the market was suggesting—I think Mr Cooper was suggesting that 20 years was pretty much the norm for an evaluation and that to extrapolate it to 50 was somewhat unusual.

Mr Cooper: That's correct. My point was more that in evaluating the return Mr King spoke about at 12.8%, that's looking at what the value of the building may be after 20 years. The valuers tend to use something like 20 years. If I asked you how much a dollar is going to be worth 21 years from now, most people would say, "Nothing, because inflation will take it away in 21 years." It's normally 20 years as a maximum when we look at evaluating a building. If we get return beyond 21 years, it's a bonus; we do better than 12.8%.

Mr Fletcher: Just a couple of things. If this building is built and everything starts running, this is going to benefit people across Ontario, not just in Toronto. Someone in Thunder Bay or someone in Sudbury is going to see the benefits of this, is that correct?

Mr King: Yes. The head office of the Workers' Compensation Board is contained in the proposed new facility, including our information services, which goes out to all of the regions; including our personnel and human resources, which goes out to all of the regions; including our communications branch, which goes out to all of the regions; the many corporate parts of the WCB which will be improved through the move to this office building, and that will show improvements out in the regional areas.

Mr Fletcher: So it's an investment in Ontario, it's an investment that the Ontario taxpayers are going to see a benefit from.

Mr Callahan: Is this a commercial?

Mr Fletcher: It's a lot better than Suncor or the Sky-Dome. Let's look at fiascos and some dumb moves. Let's face it. The two over there made some goofy moves in the past. What we're talking about is investments, and we're seeing an investment that's going to benefit the people of Ontario, not an investment that's going to cost the people of Ontario.

The Chair: Any other questions from the government members? Mr Hayes, do you have any questions? You have time.

Mr Hayes: We're trying to avoid the mistakes that previous governments made in the past, to the benefit of representing—

Interjections.

The Chair: Thank you for your question. Mr Sorbara has a question.

Mr Sorbara: I have a couple of questions. The vice-chair and others have tried to make the case that this is a good investment for the investment portfolio of the Workers' Compensation Board. If the Workers' Compensation Board were not a guaranteed tenant of this building, if you were proposing to invest in the building without the security of a tenant paying, initially, \$26 and change per square foot, would this be a reasonable investment for the Workers' Compensation Board investment fund? In other words, if you were not a tenant of the building, would you be investing in Simcoe Place were there no secure tenant of the type that is now securing the construction price?

Mr King: I don't think I would invest in an empty building going up right now.

Mr Sorbara: You wouldn't invest in commercial real estate in the greater Toronto area right now, is that right?

Mr King: I would receive the counsel of the professional real estate people in our investment division. If you want an answer, likely there wouldn't be investment in commercial real estate in Toronto right now.

Mr Sorbara: So the only basis upon which you can say this is a good investment for the board is that the board itself turns it into a good investment by becoming the principal tenant of the building, isn't that right?

Mr King: That's very true, and that's what makes it such an advantageous situation for the Workers' Compensation Board. We turn our need to have 525,000 square feet of building in order to do our business into a way to pump up the return to our investment fund.

Mr Sorbara: Unless there were alternatives to fulfilling your need for space.

Mr King: From an investment point of view, we would have to find an alternative to whatever amount of money we are going to be putting up by way of equity, the rest of which will be borrowed.

Mr Sorbara: Can I ask why the chairman of the board isn't here today and whether he's going to be appearing during these hearings?

Mr King: I can't speak for the chairman of the board for tomorrow, but he was quite ill for the last several days. Last week he missed three days; quite sick.

Mr Sorbara: During the period when I was Minister of Labour—that was 1987 to 1989—there were ongoing discussions about new facilities for the board upon the expiry, or even before the expiry, of the lease. Those discussions took place between me as Minister of Labour and the chairman of the board, at that time Robert Elgie, and the vice-chairman of the board, at that time Alan Wolfson. The understanding was that the board would not proceed until the government had considered and reviewed the matter of new space by way of a report of the then minister—that was me—speaking to his cabinet colleagues the Premier and the Treasurer, at that time Robert Nixon.

My impression from the way in which this matter has developed is that there was never any discussion between the chair, the vice-chair or the senior administration of the board and the current Minister of Labour and the government. That is to say, it appeared that the proposal to build the new building in downtown Toronto took the government by surprise.

Can you tell us what discussions you had with the Minister of Labour about this proposal, what discussions you had with the Treasurer about this proposal, and whether you ever sought the approval of the government, which after all is a major tenant in the downtown area of Metropolitan Toronto, what discussions you had with the government through the Minister of Labour, the Treasurer, the Premier or the cabinet about this proposal and whether you received the approval of the cabinet to proceed with this proposal?

Mr King: You know some history I'm certainly not aware of. It's my understanding, however, that the previous government was aware of the board's intention to move ahead into a build situation with a developer. You weren't minister for ever. I can only assume that the practice I inherited when I arrived in the spring of 1991, which was for a monthly meeting with the minister for briefing purposes, took place. In so far as seeking approval is concerned, to the best of my knowledge no approval was sought from the government by the Workers' Compensation Board. To the best of my knowledge, the Workers' Compensation Board did not seek the approval of the provincial Treasurer. That's based upon my knowledge of the situation.

Mr Sorbara: Prior to the signing of the contracts, did you advise the Minister of Labour of your intention to enter into a contract of this sort?

Mr King: I assume that the previous Minister of Labour, who would be your successor, was advised by Dr Elgie and Mr Wolfson of their intention to proceed to sign the agreement I inherited when I arrived at the Workers' Compensation Board. I have monthly meetings with the minister to tell him what the items are on the board agenda for board deliberation and he was aware that we were to proceed.

Mr Sorbara: Let's just get our history clear here. The board of directors considered investigating this move in July 1990, three months before the government changed. When I left office, there were ongoing discussions and periodic reports to me as minister as to what the executive of the board was considering or contemplating, or what avenues it was thinking of investigating. There was a clear understanding that the board would not proceed without the concurrence of the government, but the contract you signed was signed not

during our term in office, but almost two years after our term in office ended.

What I'm asking is whether you or the chair ever advised any minister in government that you intended to enter into the agreement that you entered into in 1992. Did you ever advise the government you were going to do this?

Mr King: In terms of the final agreement in June 1992, our monthly briefings of the minister would have included that. You're going to have to speak to the previous chair and vice-chair, whom you probably appointed, as to what they told the government.

1710

Mr Cordiano: There's no documentation surrounding that?

Mr King: These are verbal briefings of the minister. I don't know whether you received written briefings or not.

Mr Sorbara: Was any advice ever given to the Minister of Government Services, who is a major tenant on behalf of all government departments, ministries and agencies? Was there ever any advice given in writing from your office that the Workers' Compensation Board intended entering into a binding agreement requiring the board to participate in a \$200-million building project in 1992? Was any advice ever given to the Minister of Government Services, to the Minister of Labour, to the Treasurer or to any other minister in the government of Ontario prior to entering into that agreement?

Mr King: To the best of my knowledge, the only one who would have been aware of it would have been the Minister of Labour through regular monthly briefings on what the board was doing.

Mr Sorbara: Was there ever any written advice from your office to any minister or from the chairman's office to any minister that the board intended entering into such an agreement?

Mr King: I would have to have the files checked, sir. I'm sorry, but I—

Mr Sorbara: Could you do that and advise us accordingly?

Mr King: I don't believe so, but I couldn't know for certain.

Mr Sorbara: Do you not think it would have been appropriate? Given that the government of Ontario is a major tenant in the greater Toronto area and certainly in the downtown area, do you not think it would be appropriate for you, as vice-chair of the board, to at least advise in writing, formally, the Minister of Government Services that you are contemplating entering into a binding agreement requiring you to participate in a \$200-million office development in downtown Toronto?

Mr King: My personal view is no.

Mr Sorbara: Notwithstanding the fact that the Minister of Government Services and the government itself were re-examining the government's complete strategy in terms of the leasing of space in the Toronto area, and that it had a program of relocation of several ministries outside of the Metro Toronto area to other communities like St Catharines, Thunder Bay and Sault Ste Marie, you don't think it would have been appropriate for you to advise the government formally that you were contemplating such an agreement?

Mr King: The government was advised through the regular monthly meetings with the minister that the board was proceeding with the facility strategy which had started in 1989.

Mr Sorbara: Was there anything in writing from your office or from the office of the chair advising the government formally that you contemplated entering into this agreement?

Mr King: To the best of my knowledge, no.

Mr Sorbara: So you never advised the government formally that you were going to enter into an agreement requiring you to participate in a \$200-million development in downtown Toronto at a time when the vacancy rate in downtown Toronto was bankrupting many, many land development firms, including your current landlord?

Mr King: To the best of my opinion, no.

Mr Cordiano: Could I ask, Mr Chairman, one brief supplementary?

The Chair: A brief supplementary.

Mr Cordiano: I would ask that if in fact there was any written agreement or written documentation informing the minister or informing anyone in the government, you make that available after you make all other documents available to this committee that we've already requested.

Mr King: I have indicated to you that to the best of my knowledge there was no written communication.

Mr Cordiano: I understand that. I just want to make sure that any written documentation is made available to this committee so that it would form part of the information package that we receive.

Mrs Marland: Certainly, we are aware that the Treasurer, Floyd Laughren, asked that the option of cancelling this palace construction for the Workers' Compensation Board be investigated. That was reported in all the Toronto newspapers, that Mr Laughren wanted to see if this project could be stopped, as of last November, two months ago. Obviously, at that time the Bob Rae socialist government was concerned enough about this project that the Treasurer asked to have the option of cancelling the contract investigated.

Mr King, would you like to tell this committee what your role was in investigating that option, and could you tell us what direction you received from Mr Laughren, the Treasurer, to see if you could get out of building this building?

Mr King: You, fortunately, know as much of the provincial Treasurer's opinion on the matter as I do, because I have never spoken to the provincial Treasurer. I merely read the same press reports that you read. No approach was made to me asking how we get out of the deal or can we get out of the deal.

Mrs Marland: Maybe not you personally, but obviously this is a question directed to you as a representative of the board. I think the newspaper account refers to the fact that the request was going to be made of the board, perhaps through Mr Di Santo. Although you may not have spoken with the Treasurer, have any of your board members or your staff spoken to the treasury staff or the Treasurer himself on this matter of cancelling the contract?

Mr King: At the bureaucratic level in the board, which we represent, I'm unaware of any discussions that may have taken place with the treasury officials. Please understand that

I have been trying to determine whether the board has options. One does not have to be particularly acute to realize what the situation is in real estate at the present time.

Possibilities are being explored, but this is getting into a pretty arcane area, to ask what might the costs be to breach a duly signed contract. The best you could probably get is a range. It may cost X dollars if you come in breach of the contract, but anything I'm doing in that regard is in my capacity as vice-chair of administration, and at the time when it comes to advise the board, as I must advise it from time to time, if any of them start asking the same questions this committee is asking, I have the thing under consideration, but not in response to a question from the provincial Treasurer.

Mrs Marland: I'm encouraged to hear you say that you too have been looking at this option. If you have been looking at this option, then are you saying you don't think it's a good deal any more?

Mr King: No, that is not what I'm saying. I think that any good manager has a range of options laid out before him so that if asked certain questions you can give responses. I show no weakness in my support of the position, but I'm aware that others may question very strongly the board's decision to move ahead on Simcoe Place, and as a good manager, I feel I should have some intelligent response to those sorts of questions.

Mrs Marland: You're saying that to your knowledge no one, either a staff member of the board or a member of the actual board, had any conversation with the Treasurer, Floyd Laughren, or any of his staff on cancelling this contract.

Mr King: I believe that the chairman of the board probably was in touch with the Treasurer. What they spoke of I don't know.

1720

Mrs Marland: So does the chairman of the board operate in an autocratic style where he would make decisions solely on his own without going to the rest of his board, or certainly to you as vice-chairman?

Mr King: I believe the present chairman of the board is probably the most democratic chairman there has been in many years and that he involves the board in almost everything we do.

Mr Sorbara: You didn't know Robert Elgie.

Mr King: I'm a good personal friend of Dr Elgie.

Mr Sorbara: Odoardo is more democratic than Bob Elgie? I don't believe it.

Mrs Marland: So what you're saying is that what we read about in the press, and two of the dates of the clippings I'm looking at—one was the Toronto Star, December 1, 1992. The headline says, "NDP Seeks Legal Call on Killing WCB Deal."

"Ontario Treasurer Floyd Laughren has asked for a legal opinion on scuttling the province's \$150 million"—they're complimentary to you here on the amount—"commitment to build a Workers' Compensation Board headquarters that opposition members have branded a 'ridiculous venture.'"

"But Laughren yesterday cautioned 'there may be legal obligations that are very, very difficult to get out of.'"

The suggestion here is that Mr Laughren, the Treasurer, was looking at the option of getting out of this contract, and it would be difficult to imagine for a minute, knowing Mr Laughren as I do and having the respect for him that I do in terms of how he goes about doing his homework, that he would make this decision in isolation without speaking to anyone at your board.

Mr King: I indicated to you that I believe he and the chair of the board, Mr Di Santo, had some discussion. I, by the way, read very carefully the Hansard record of the Treasurer's comments, and I believe if you check, you will not find quotes from the Treasurer in the article you just read. I believe the media perhaps had put certain words into his mouth related to the Hansard proceedings, and if you go back and you review your Hansard, I think you'll see that.

Mr Sorbara: I just have a supplementary to Ms Marland's question, if I might, Mr Chair.

The Chair: I was going to wrap it up very shortly. It can be a very short supplementary.

Mr King: Yes, I was going to ask—

The Chair: Mr Fletcher has some questions, I have some questions, our Provincial Auditor has some questions, so one brief supplementary.

Mr Sorbara: You were saying to Ms Marland that you were looking at options. Just assuming for the moment that the agreement is tight and binding, notwithstanding that the financials haven't been worked out, but that there is legal liability, at least theoretical legal liability, do you honestly believe that those who would be suing the Workers' Compensation Board, namely, the Toronto-Dominion Bank and Cadillac Fairview, would be going after the Workers' Compensation Board, and by extension the government of Ontario, for the last drop of legally binding blood in the event that the board in its wisdom chose to not complete this deal? Do you realistically think Cadillac Fairview would undertake that sort of strategy, at a time when it is trying desperately to create a better business climate in the province of Ontario?

Mr King: Cadillac Fairview, as an example, maybe has some empty space and might be prepared to talk to us about getting out of this deal. I think the party that might be most aggrieved would be the CBC, because this may be the only game in town for it for the next 10 years. That's probably the group that would be most anxious to have their lawyers talk to our lawyers.

Mr Sorbara: Do you really think that the public of Ontario and Canada would tolerate the Canadian Broadcasting Corp trying to force the Workers' Compensation Board into building a building which currently is not advisable to be built in the province of Ontario? Do you think the public would tolerate that, the new Prime Minister of Canada, whoever she or he might be, that this would happen? Is it not more realistic to think that a proper decision could be made to simply bring this deal to an end now and work out the details about how the pieces would be picked up and put back together?

Mr King: One always hopes that people would sit down and rationally discuss issues. Having dealt with some of these parties in the past, I believe all of them have large law firms

on retainer and I'm not too sure it would become such a rational discussion as you're suggesting.

Mr Sorbara: My suggestion to you is that it's just not reasonable to think that sort of lawsuit would ensue.

Mr Fletcher: Correct me if I'm wrong. Is it a statute or under the legislation that the Workers' Compensation Board has to be located in Metro Toronto?

Mr King: Yes, the head office of the board has to be in Toronto.

Mr Fletcher: In other words, looking outside the city for space would be—could you do that?

Mr King: Presumably, if we had a head office of four people. These are lawyers' questions.

Mr Fletcher: I was just thinking of the relocation of other ministries such as Mr Sorbara had raised, where Agriculture and Food went to Guelph or somewhere else, and the registrar general to Thunder Bay. I was just wondering, as far as that's concerned, right now it's saying that the location has to be in Toronto.

Mr King: That is correct.

Mr Sorbara: Guelph already got a head office.

Mrs Marland: Just for the record, in the Globe and Mail on November 19, 1992, there is a quote attributable to the Treasurer:

"I'm concerned about it," he said in an interview, noting that he has spent the past two years trying to get departments and agencies to accept the financial squeeze facing the government.

"Mr Laughren has asked senior WCB officials for a meeting to explain why they want to move into a new building at Simcoe and Front Streets."

Mr King: That may very well have been the meeting I suggested occurred between the chair and—

Mrs Marland: He was concerned about it.

Mr King: I never suggested he wasn't concerned. I'm saying he never asked me for a legal opinion.

Ms Angove: He also got up in the House and confirmed that he did have a legal opinion that confirmed we are in a legally binding transaction. That was from the Treasurer.

Mrs Marland: That's fine, but he sought the legal opinion because he thinks it's a rotten deal. He doesn't want to spend this money on behalf of the people of this province, and an arm's-length government agency is still the people of Ontario's money.

The Chair: Thank you. That should do it for committee members. I have a couple of short questions and our Provincial Auditor has a number of short questions. If you're unable to answer them today or don't have the information, I'd appreciate it if it could be noted and the material could be made available.

Mr King, as the vice-chair of administration, do you sit in on the regular briefings of the Minister of Labour?

Mr King: Yes, regularly. I miss occasionally, because I have a lot of other things to do as well.

The Chair: Have you ever attended a meeting where the Minister of Labour was briefed on this transaction; that is, the discussion before this committee today?

Mr King: In all honesty, I would have to check my calendar to see if I attended the briefing on this particular issue. I simply don't recall whether I was there last April, but I can certainly answer that tomorrow.

The Chair: Would you agree that a matter of this magnitude probably caused more than one briefing of the minister to take place?

Mr King: Well, the minister has staff who can brief him. For instance, we provide issue sheets to the minister on various items at his request or the request of his staff, so I'm sure he's been briefed by his own staff on the matter.

The Chair: You believe then that information which emanated from the board office, some of it even from your own office, could have ended up in the hands of the minister's personal staff and then into the minister's office.

Mr King: Once a month, we discuss what the board is generally doing and what's on the agenda for the board of directors' meetings.

The Chair: Mr King, I'm assuming you would probably have more knowledge on this subject matter, or maybe the people with you today would probably have more intimate knowledge on this subject matter than, say, the chair of the board, who has overall, global responsibilities for the operations of the board.

Mr King: Most certainly. The board is a multibillion-dollar operation and this is one part of that multibillion-dollar operation.

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The Chair: It would be appropriate then for me to assume that either yourself or any of the people with you today would have been in on the briefings that would have been given to the minister. I'm trying to narrow down the scope of people who have the capabilities to answer a list of questions that an energetic minister like Mr Mackenzie might have.

Mr King: I can certainly determine who was at the ministry briefing. I'm not certain, in this particular province, what the client-solicitor privilege or the bureaucrat-politician situation is and whether or not—

The Chair: I'm not asking for any detail. I just want to know whether or not you or anyone else at the table today sat in on briefing meetings of the Minister of Labour and exchanged information and answered questions. I haven't asked yet about confidential briefing documents or maybe some political comment that the minister might have made or some confidential information you might have given to the minister. All I want to know is who at the board would have attended these meetings in your absence, made representations to the minister and answered the minister's questions.

Mr King: I'll have to provide that information tomorrow. Just a quick poll here: None of the three with me today recalls having personally attended the briefing at the ministry, but I should be able to get that information for you tomorrow.

The Chair: It's my intention to call that person or those persons as witnesses.

Mr King: would you say that the relationship between the Workers' Compensation Board and the Minister of Labour is friendly, cordial and professional?

Mr King: Yes.

The Chair: Why then, if that is the case, would you seek legal opinion to extract the Workers' Compensation Board from the requirements of section 64 of the Workers' Compensation Act, which reads, "Subject to the approval of the Lieutenant Governor in Council, the board may purchase or otherwise acquire such real property, as it may consider necessary for its purposes, and may, with the like approval, sell or otherwise dispose of any such property"?

Why would the board, with your knowledge and acquiescence, and the people with you today—if you have that kind of relationship with the minister, with these words being as clear as they are—seek outside legal opinion that would allow you to circumvent the protection of the public that is in this legislation?

Mr King: I think I had indicated to you earlier that I wasn't the one who sought that advice. To my knowledge, an opinion was sought for the board of directors prior to my coming to Ontario, and in addition to that I believe I indicated earlier that Dr Elgie sought his own personal opinion to make sure that he was on clearly solid legal grounds to proceed with the matter.

The Chair: So the legal interpretations we are going to receive from the board tomorrow, hopefully, will show by date that the relief sought by the board in regard to section 64 was done by Dr Elgie?

Mr King: That's one of them, and the other one would have been done for the board of directors. I don't know to whom it was addressed. I'll have to find out.

The Chair: Do you have any idea what that date might be?

Mr King: Some time in 1991.

The Chair: In 1991, the Minister of Labour was Bob Mackenzie, the same minister we referred to only a minute ago, where we all concluded that the board's relationship was friendly, cordial and professional. If that is the case—

Mr King: I'm sorry; there's a 1990 opinion as well. It may have been after the election that Dr Elgie sought an additional opinion. I don't know. I haven't talked to him in particular about this.

The Chair: Have you yourself reviewed section 64?

Mr King: Yes.

The Chair: How do you read section 64?

Mr King: I read section 64 that the board should not purchase or dispose of real property without the permission of the Lieutenant Governor in Council.

The Chair: Do you not agree that what you are doing in the construction of this new headquarters is in fact just that?

Mr King: The interpretation that the lawyers put on it is that this is an investment—

The Chair: I'm asking your opinion, Mr King. I'm asking your opinion as the vice-chair of administration.

Mr King: It's not the most comforting position one could be in, but it is a valid investment for the Workers' Compensation Board investment—

The Chair: Please, Mr King, I didn't ask about whether the investment was valid or not. I want to know how you, as

one of the chief and senior administrators at the WCB, interpret section 64, and then I want to know whether or not in your view the proposed head office is in fact part of section 64, that there should be compliance with section 64.

Mr King: First off, I don't believe there is non-compliance with section 64. But you asked me whether I was totally comfortable, and I said no, I'm not totally comfortable—

The Chair: I didn't ask you if you were comfortable; I asked you whether you agreed with it.

Mr King: —but I think we're in a legally correct position. There is a difference.

The Chair: We only know whether we're in a legally correct position or not when something is litigated in court and an officer of the court—a judge or a panel of judges—renders a decision. The fact that a lawyer, a group of lawyers or anyone else says something is legal or illegal doesn't mean anything until it's adjudicated. That's why to me it's important to know how the senior administration of the board is thinking and whether it's adversarial. To me it appears to be adversarial, because I look at section 64 and to me it's very clear: You can't buy any property and you can't dispose of any property unless you get approval of the Lieutenant Governor in Council, and that is the cabinet and your minister, the Minister of Labour. So I view the situation as a little bit more adversarial than I would have hoped it would be.

Mr King: Can I give you a bit further? I had indicated earlier to the committee that I arrived in April 1991, as did Mr Di Santo. The week prior, the board of directors had unanimously voted to proceed with this project—unanimously. It's our job to give advice to the board of directors, and we are prepared to do that. The board of directors then moves ahead and makes decisions.

There was a difficult time period of accommodation or getting to know each other between Mr Di Santo and I and the board, as I believe they may have been suspicious about the socialist tendencies of Mr Di Santo and Mr King. Actually, I believe the committee that questioned my appointment questioned me about my beliefs. I believe the board was jealously guarding the new facility as a good business deal against people who might have wild left-wing ideas and try to—I mean, I'm trying to give you the climate that was going on.

The Chair: I appreciate that, Mr King, but I can only deal with what I have before me and what's written in law.

Mr King: Yes, I appreciate that.

The Chair: That's why I want to deal with section 64.

Would you agree with me that this transaction is not an arm's-length transaction?

Mr King: In what sense, sir?

The Chair: In that you're spending funds to build a building and then you're renting the building to yourselves, causing further expenditure of funds.

Mr King: In my view, this is the Workers' Compensation Board pension fund making an investment in a real estate transaction, and it is the Workers' Compensation Board as a tenant making a long-term lease at advantageous terms.

The Chair: Mr King, how long have you been a public servant?

Mr King: Something like 20 years.

The Chair: So you have great experience with what would be considered an arm's-length transaction or a non-arm's-length transaction.

Mr King: Yes.

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The Chair: With all your years of experience, would you agree with me that this could be considered a non-arm's-length transaction?

Mr King: I have a difficult time as the one in the middle between the tenant on the one hand and the investor on the other saying what the interest of the corporation is when the investor is making an investment and the tenant is making a decision to move in.

The Chair: Let me see if I can help you. I perceive an arm's-length transaction to be that you own a building, you and I have no personal relationship or family relationship or any other business relationships, and I come to you and say: "I wish to lease X number of square feet. Give me the market rate or better and we'll see if we can do business." That is an arm's-length transaction. Would you agree?

Mr King: Yes.

The Chair: Right. Now, you and I have a pension fund we own together—it's for a group of individuals—and we both have something to do with it. Then you and I and a third party decide we're going to build a new building, we're going to use the money from that fund that we have something to do with to help finance it, then we're going to rent it to ourselves. Do you consider that an arm's-length transaction in the true sense of the word?

Mr King: There is a veil or a wall up between the two positions. I'm the one who's sort of the wall.

The Chair: How can you be the wall if you're here before us answering all the questions?

Mr King: Because you asked me to come.

The Chair: You were sent by your chair because he was unable to be here due to ill health. Surely he sent you because he thought you were the most capable person to answer these questions.

Mr Duignan: On a point of order, Mr Chair: It is my humble belief that as Chair of the committee you should be in a position of impartiality. If you want to continue cross-examining the witnesses like this, maybe you should vacate the chair.

The Chair: As a former Chairman of the committee that worked on committee rules and House rules and having served under Michael Breaugh, the former esteemed member for Oshawa, who helped set up a lot of these traditions, I am doing no differently this afternoon than what Mr Breaugh did as Chairman for innumerable years here in the Legislature.

Mr Sorbara: I'm wondering if I could put in a request for a supplementary to the questions you've asked.

The Chair: I gave everybody lots of time for questions. I told the committee members two or three times that when you had finished all your questions I had a series of questions. Some people view them as adversarial; I'm sorry to hear that. Then I said that the Provincial Auditor had a short series of questions.

Mr Farnan: On a point of order, Mr Chairman: I have no objection to your asking questions. However, in fairness, I would think there are many members around the horseshoe here who would envy a time allocation equal to what you are enjoying.

The Chair: I checked the clock.

Mr Farnan: I would say to you that only in the area of time allocation maybe are you abusing the office of Chair. With 15 minutes remaining, I would suggest that five minutes be allocated to each caucus.

The Chair: I have no problem with that. I foresaw your point being asked and I appreciate the point you made.

Mr Farnan: Maybe it's time for the auditor to make a statement.

The Chair: I've done a quick tabulation and I have not used up any more time than any other individual member. As a matter of fact, I could name three members who have used up considerably more time than I have, which was their choice, which was the choice of the individual caucuses and the choice of this committee. I will make sure I do not use up any more time than any other members of the committee, but thank you for allowing me to do so.

I also want to ask Mr King, would there be a more appropriate person, other than yourself, who could answer the question about whether or not this is an arm's-length agreement?

Mr King: As I'd indicated to you, in order to make sure I can determine what options are available to us, not because I think it's a bad deal but because I think others might ask that question, I have retained for my own purposes a set of counsel in order to advise me on the matter, and I suspect they may be the ones, who are not working for either the investor or the tenant but for myself, who might be better able to answer a question like that.

The Chair: Thank you. The Provincial Auditor has some questions, and then we're going to have five minutes for each caucus, if they wish it.

Mr Peters: I'm asking my questions essentially because the motion on the floor is whether we should do a value-for-money audit. My questions are really aimed at getting some information that might help us to determine whether such an audit is appropriate and how we should proceed.

The first one, following up a little on these questions: Could you somehow develop for us, not tonight but at the next session, the legal framework within which the Workers' Compensation Board accident fund makes this investment, in the overall, so that there is a legal view as to what is arm's length and what is not arm's length, and how the fund is managed as opposed to how the board is managed, as a separate management, these sort of questions, to just determine what the legal framework is within which this operation takes place.

Mr King: Yes, we can do that.

Mr Peters: The second one, similarly, is whether you could also outline, maybe in a fairly concise form for the members to understand, the financial framework—

Mr King: I can't hear the question.

Mr Peters: I guess we lost the Chair for a moment—what the financial framework is like, how the fund's flow is going to operate, what funds will flow to whom from whom.

In this connection is a very specific question: You made reference to the borrowing, that the Workers' Compensation Board will borrow funds for this investment and not all the funds will be funded. The question is, does the board have the power to borrow? If you wouldn't mind addressing that particular question.

Mr King: Yes.

Mr Peters: The last one is just again on the value-for-money basis, because it might influence it. Once the decision was made to use the accident fund for the funding, did that in any way limit the extent of your search for alternatives? You can answer that directly if you wish, but I wanted to raise that question because once in your testimony you referred to the fact that the existence of the contract stopped you from doing certain things.

Mr King: Yes. The alternatives were no longer explored after the March 1991 meeting of the board of directors where the board directed the administration to proceed to negotiate the final items in the agreement with the partners: Cadillac Fairview, Toronto-Dominion Bank, Bramalea and CBC. It would have been from March 1991. Other alternatives were not looked at after that.

The Chair: Mr Callahan.

Mr Callahan: I just want to get this clear. The act prevents you from borrowing or purchasing land without consent of cabinet. Let's not use "Lieutenant Governor in Council." I always find that's deceiving to the public. It's the cabinet, the government.

What you did was, you set up a numbered company, which has the power to borrow, as an Ontario company does, which borrows the money to build the building along with its partners and thereby gets around WCB's no-no of doing these things without government approval. Isn't that right? And then WCB leases the building from that numbered company.

Somebody must have gone to a lawyer and asked that question, because it's a neat one. It's like, "How do we get a building built without having to go and get government approval?" The lawyer says, "Well, you can't do it under the act because it says you've got to have government approval." "So how can we do it?" "You can do it by setting up a numbered company," and the numbered company does the things I've just suggested. They become the inviolate corporate veil that you can't pierce, that has all the powers to borrow, to build and all the rest of it, and WCB just becomes a long-term tenant of that numbered company. That's exactly what happened, isn't it?

1750

Mr King: Our investment fund or pension fund does not invest in real estate as the Workers' Compensation Board. It invests through numbered companies because if we go out and purchase an investment, we don't necessarily want it known it's us because it may affect price, it may affect whether someone is foreclosed and a few other things. So all of our investing on the real estate side is through numbered companies.

Mr Callahan: Okay, but that in fact gave you the ability to bypass the government, which is what was done.

Mr King: Look, this all happened before I got here when you guys were in there.

Mr Callahan: I know. No, no. When I say, "gave you," I'm talking in terms of the royal "you"—not you "you," but the WCB. So, just finally, if it turns out that they're wrong—I mean there's a principle in law that you cannot do indirectly what you can't do directly. It seems to me that's exactly what has happened here. You have done indirectly what you cannot do directly and as nice as that legal opinion may be, I think if it were to be found, it's more than just because of your pension fund that that's the reason it was done.

The people on the other side of the coin may very well find themselves faced with that proposition being thrown at them by a judge, that you've tried to get around the government. It's clear you did because the Treasurer didn't know about it. The Treasurer is reported as disclaiming any responsibility for this that he's going to talk you out of buying it and suddenly I see the government members over there praising the accolades of this whole thing. So I have to decide that the Treasurer has changed his mind. He's now in favour of it.

Mr Sorbara: Just following up on the Chair's questions and back to section 64, there is a sense that there is some qualification on the efficacy of this transaction because of the absence of cabinet approval, notwithstanding that the building is being invested in through the investment fund. The board becomes the tenant and there is a non-arm's-length transaction. As a real estate lawyer, I would look at the title and I would read section 64 and I would say, "Hmm, maybe there is not good title in the lease because the board has not done what it's required to do under section 64."

Now this matter, having been raised, can be cured very simply. The Workers' Compensation Board, subsequent to your arrival and before the deal is signed, can go to the cabinet and say: "Look, we are about to enter into this transaction. We think we have structured it in a way that does not force us to get your approval as the cabinet under section 64, but we would be airtight in this deal if we got cabinet approval. So would you please approve this to make sure that this real estate transaction cannot be challenged by any title searcher down the road?" Did you give that advice to the cabinet, to the chair or to anyone that cabinet approval be sought just to ensure this transaction could be airtight?

The Chair: Mr Sorbara, your time is up.

Mr Callahan: That's a good way to do it. I think Floyd will give it to you now.

Mr King: I cannot tell you in honesty whether I discussed this with the chair. It certainly went around in my own mind as to whether this possibility should be explored.

Mr Sorbara: Would it not be a good idea now to go to the cabinet and get its approval just to ensure that the deal is not attacked under section 64?

The Chair: Mr Sorbara, your time has expired. If there's an answer, I'll allow the answer. If there's no answer, we're going to move right along.

Mr Farnan: I think it's time we moved on to the next question.

The Chair: You're absolutely correct, Mr Farnan.

Mr Tilson: We'll ask the question. Do you not think it would be wise to receive permission from the cabinet?

Mr King: It probably would have been easier. I maybe don't understand the culture in Ontario, not having come from Ontario.

Mr Sorbara: The culture?

Mr King: Yes, the culture. Where I come from, the workers' compensation boards enjoys a true arm's-length relationship from government. I've served as chairman of the board in two different provinces and I never received an order from a minister.

Mr Tilson: Did they have numbered companies where you came from?

Mr King: To invest in real estate, we did.

Mr Tilson: Did you? Who are the shareholders of this numbered company?

Mr King: The WCB owns the shares.

Mr Tilson: I'm sure they are. Mrs Marland has a question.

Mrs Marland: Mr King, as the afternoon has proceeded, you have said that you can't answer some of the questions because you were not here at the time. However, did you not say that this final contract was signed in June of this year?

Mr King: That's correct.

Mrs Marland: Are you proud of that? I mean, you were here in June of this year. You've been here since April 1991. You said the final contract was signed in June of this year. You can't hide behind the shroud of "I wasn't here." You were vice-chairman when this contract was signed six months ago, and six months ago the economy of this province and the situation of available leased space in the greater Toronto area was the same as it is now. So are you proud of the agreement to build this 30-storey building on land that you don't own in the most expensive real estate in Toronto?

Mr King: I am personally not apologizing for anything I did during the period of time I have been here. I am proud that the WCB of Ontario has come up with the best possible business case for itself both as an investor and as a tenant. Unfortunately, the timing could probably not be worse.

Mrs Marland: Are you proud of the fact that you may have violated section 64 of the act?

Mr King: I believe it was sheer speculation that the board is in any violation of section 64. I have two and possibly three legal opinions from rather august law firms that we are not in violation of section 64. Rather than speculate, I believe your colleague suggested maybe legislative counsel might look at it before we begin pointing fingers about people in violation of the law.

Mrs Marland: And you're bringing those opinions tomorrow.

Mr King: That's correct.

The Chair: Mr Fletcher and then Mr Hayes.

Mr Fletcher: I'll defer to Mr Hayes.

Mr Hayes: Thank you, Mr Fletcher. Mr Chair, there have been a lot of accusations thrown back and forth and at the board and also at the Treasurer. Just for the record, because there are comments about whether the Treasurer was concerned at one time and is not concerned now, let me read

from Hansard. This is from the Treasurer in response to a question from Mr Offer.

"It was my understanding that before the present chair of the board took his job at the board, an agreement had been reached, and I think unanimously, by the directors of the Workers' Compensation Board, including all of the employer representatives on the board, that such an arrangement should be struck and that they should proceed with the construction of a new building."

He also goes on to say: "I think you should separate my responsibilities from those of the board of directors of the Workers' Compensation Board."

"I did ask for a legal interpretation as to what extent what had already been done was legally binding on the board of directors. I didn't make any commitment to approve or disapprove of the project, because I'm sure the member opposite would not want us to become engaged in an expensive lawsuit if that was to be the final outcome. I've simply asked for a legal interpretation to determine just what the status is of the obligations already undertaken by the board of directors of the Workers' Compensation Board, not by me."

In other words, I believe the question is that the concern the Treasurer did have was that something had already taken place, a decision to do something before the present chair was even here or probably before even this government was here, and the Treasurer was finding out if he could really get involved, whether it be legally or not. I think that should certainly be put on the record.

Mr Tilson: He was here in June 1992.

Mr Farnan: Just a couple of quick questions: Prior to your arrival at the board, Mr King, and the arrival of Mr Di Santo, would it be fair to say that something of a head of steam had been generated around this issue and that in fact the activity around this issue increased with the imminent prospect of your arrival?

Mr King: I had indicated that the week before I was appointed and took office, the board of directors unanimously voted to proceed to the detailed negotiations on the project. I want to agree with one of the members on my right, however,

that I accept responsibility for the decision at the present time. I'm not trying in any way to duck from that. You inherit something but then you have to make it your own. We inherited a unanimous opinion by the board of directors that they wanted to proceed with this building. We could probably have counselled that they stop and not proceed with it. I repeat what I said earlier, however, notwithstanding what one hopes is a short-term significant problem with commercial real estate in Toronto, that from any strategic point of view, this is a good decision from both an investment and a tenant point of view.

Mr Farnan: I think the point I'm trying to make is that the decision is not a decision in one day, one week, one month or a year. It's a decision that has some kind of continuity over several years and indeed over several administrations, I would suggest. I think the point that has to be emphasized, certainly to my community in Cambridge, is that if you are to walk away from this kind of decision, there are very serious consequences. Is that not the case?

Mr King: At this point in time, if we were to become in breach of contract, it would have very significant financial implications for the WCB.

Mr Farnan: The final summation then would be that you have a project that can provide accommodation at approximate market rental value but that would have severe consequences to the taxpayer ultimately were you to walk away from it.

Mr King: I stress the early part of our presentation. This is a good deal for both the Workers' Compensation Board as investor and the Workers' Compensation Board as tenant. It will improve the service to the public of Ontario, the employers and the workers of Ontario. It is a good deal for Ontario.

Mr Farnan: All of the worker reps and all of the business reps on the board unanimously supported the project?

Mr King: They unanimously supported the project in March 1991. There was one demurring vote in May 1992.

The Chair: Time has expired. The committee is adjourned until 10 am tomorrow.

The committee adjourned at 1803.

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CA2641
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F-17 REPRINTED

RÉIMPRESSION F-17

ISSN 1180-4386

Legislative Assembly of Ontario

Second Intersession, 35th Parliament

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Official Report of Debates (Hansard)

Thursday 14 January 1993

Journal des débats (Hansard)

Jeudi 14 janvier 1993

**Standing committee on
finance and economic affairs**

Pre-budget consultations

**Comité permanent des finances
et des affaires économiques**

Consultations prébudgétaires

Chair: Ron Hansen
Clerk: Tonia Grannum

Président : Ron Hansen
Greffière : Tonia Grannum

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 14 January 1993

The committee met at 0936 in committee room 1.

PRE-BUDGET CONSULTATIONS

The Chair (Mr Ron Hansen): We will resume the hearings on the pre-budget consultations in the standing committee on finance and economic affairs.

FEDERATION OF WOMEN TEACHERS' ASSOCIATIONS OF ONTARIO

The Chair: The first group on this morning is the Federation of Women Teachers' Associations of Ontario. Would you come forward, please. I'd like to welcome you to the standing committee on finance and economic affairs. They're not unfamiliar faces, but Hansard can't see you, so perhaps you wouldn't mind reading into the record who you are.

Ms Margaret Dempsey: Yes, certainly. Good morning. My name is Margaret Dempsey and I'm president of the Federation of Women Teachers' Associations of Ontario. With me this morning are Barbara Sargent, first vice-president of FWTAO; Joan Westcott, executive director, FWTAO; and Bev Gardner, second vice-president, FWTAO. We also have with us this morning several members of our FWTAO board of directors and an executive assistant for political action-public relations from our office.

The Chair: Come forward. One can sit beside Mr Carr, and there's another seat on that side. Don't be shy.

Ms Dempsey: FWTAO is pleased this morning, on behalf of our 41,000 women teachers who teach in our public elementary schools, to present to you, the standing committee on finance and economic affairs. As for the last number of years, we want to speak not just about adequate funding for the education of the young child but about some wider social issues as well.

Let me acknowledge right up front that we as women teachers, along with most other people in Ontario, do recognize the serious problems within our economy and how difficult it is at this time for a government even to maintain existing funding for the current programs. But the responsibility facing any government, regardless of the economic situation, is to determine the priorities for public spending. So what we will deal with today is our view of what the government's priorities should be, given the limited financial resources available. We will be discussing the financing of education, including the funding of junior kindergarten programs, poverty, and the integration of services to children.

Reduced spending in education contradicts the government's policy on training a workforce that can compete effectively in the global economy. FWTAO is well aware of the need to prepare young people with the foundations for lifelong learning. In 1988, in a submission to the select committee on education, we presented, on the philosophy and goals of education, these words in part:

"Schools can help prepare children for tomorrow's workplace...but with that base for future learning, young people can go with confidence to post-secondary institutions or directly into the workforce for more specific skills training according to the changing requirements of business and industry."

Decreased funding to the school system undermines the objective of developing a skilled workforce that is capable of competing in the world economy. What happens to children in the early school years largely determines whether or not they will be successful in school and whether or not they will remain in school. As women teachers we are pleased with the growing public awareness of the importance of the early years in a child's education. The government's initiative to reduce class size in grades 1 and 2 is, we believe, a recognition of the importance of the early years.

We are counting on the government to carry out its promise to ensure that junior kindergarten programs are in place in every school board by 1994. FWTAO has long believed in the provision of quality junior kindergarten programs for children. However, we do alert you as to the need to provide adequate resources, including proper classroom space, transportation, adequate materials and supplies, class size limits, professional development for staff and adequate services for children with special needs. We are counting on the government to carry out its promise to provide properly funded kindergarten programs in 1994. Research has shown that money spent on early-years education is money saved from future remedial and social programs.

While the financing of education in this province is a key focus for us as women teachers, our main concern is for the child. Therefore, we must address with you this morning issues which are the mandate of other ministries, as well as education.

Helping poor children: This committee received a brief from our organization in January 1990 entitled *Poor Children in Ontario Schools*. It was a call to action and it remains as true and urgent today in 1993 as it did then.

In this province we are doing a disservice to both individuals and to society. Poor children are 2.2 times more likely to drop out of school. Our teachers on a daily basis, including right now as we speak, see the effects of poverty on the faces of their students: hunger, abuse, neglect, drugs and violence.

In specific reference to the issue of violence in our society, let me take a moment to say that on behalf of FWTAO we are gratified to see the establishment of the violence prevention secretariat. The issue of violence and the eradication of violence from our society ties very strongly to women teachers' agenda and to the agenda of FWTAO.

We have undertaken a mammoth two-year, province-wide No to Violence campaign in which women teachers are serving as the catalysts within their local jurisdictions to reach out to students, parents, trustees and community groups. We can do something to eradicate violence from our society.

In terms of the violence prevention secretariat, it is also our understanding, as FWTAO, that this secretariat was created using existing resources currently within the ministry. Also, the word "prevention" is keenly noted within that title.

Numerous studies indicate the need for collaboration across professional and sectorial boundaries in order to meet the needs of all children. FWTAO believes that the coordination of services may be a better use of current resources and has the potential to help children to develop socially, emotionally and educationally. We commend the current government for establishing the integrated services for children and youth secretariat and we look forward to the implementation of its action plan.

Last spring we surveyed our 41,000 members on the delivery of services within their respective schools and their communities and we found a wide variety of services that are currently being offered through the coordinating of resources of schools and local service agencies. These models of integration, we believe, should be publicized so that other communities can build on the current experiences and integrate those services within their communities.

We do not believe that extensive funding will be required, but yes, there is a need for more coordination. In some cases a reorganization of the current resources, to prevent duplication, for example, or to fill the gaps, could achieve perhaps a better overall service to children within that community.

One particular project we've highlighted on page 7 of our brief this morning refers to the integrated services for northern children and that this program provides services to children with special needs in underserved areas of the province. As far as we have determined, the funding is shared by a number of local community sponsors as well as by the government ministries of Community and Social Services, Health, Northern Development and Mines.

At the bottom of page 7 we suggest as an organization both short-term and long-term priorities that we believe should be priorities for this provincial government: provincial funding for school meal programs and nutrition counselling; a substantial increase in low-cost and non-profit housing; funding for health care professionals to be in the schools; eliminating the feminization of poverty through government action on accessible, affordable child care; fully enforced pay equity; mandatory affirmative action, and better training opportunities for women.

We urge you to give priority to the needs of poor children, to the needs of women and poor families. When the poverty cycle is broken, we will all benefit. We know as women teachers that a child who comes to our classroom in the morning hungry or hurting or frightened will not be able to learn.

These are the priorities of FWTAO. We hope you share them and we hope they will be reflected within your recommendations as a committee. Thank you for the opportunity to be with you this morning.

The Chair: We have a few questions from the committee. We have Mr Phillips up first.

Mr Gerry Phillips (Scarborough-Agincourt): How much time do we have, Mr Chair?

The Chair: About five or six minutes apiece.

Mr Phillips: I appreciate the brief. I think you've really focused on one important area for us. In some respects, some of the funding would normally come from other portions of the provincial budget, the Community and Social Services budget.

I'm also interested in your comment about what we should be expecting as a result of the planned transfer payments to school boards for next year and what impact, if any, your federation sees as a result of that. We were anticipating originally that the government was going to transfer 2% in transfer payments this coming fiscal year and then 2% the following year. It ended up, as I think you know, being essentially 0%-0%, with a 2% transition fund. I think the committee would be interested in just what impact the federation sees as a result of that. Should we expect no problems as a result of that, should we expect to see larger classes or should we expect to see larger taxes in the property tax? You people know this well and we'd value your advice on that.

Ms Dempsey: Certainly, on the basis of what we have collected already, there are staff and program cutbacks within many school board jurisdictions, and the children and the classroom teachers are feeling the impact right now. To anticipate where we would be a year from this time or in the spring of 1993 is of grave concern to us. We are already recognizing, as you heard yesterday, that when you cut consultants and resource people or teachers who are there to benefit the most vulnerable children, children with special needs, for example, and to be a support to the teacher, you can only cut those programs and personnel once. So yes, we do share concerns about what action has already been taken within many jurisdictions because of the transfer payments and have grave concerns about what lies ahead.

Mr Phillips: Have I got more time, Mr Chairman?

The Chair: Almost three minutes.

Mr Phillips: Almost all of your recommendations involve focusing on areas that wouldn't traditionally be ones where the money would be flowing to the teaching profession. They would be areas where the money would be flowing elsewhere. Therefore, the message I'm getting from here is that that's your priority. The committee likes to get expert advice from people like yourselves on what's happening in the schools as a result of decisions we're making here at Queen's Park. It would be helpful to me if you, in whatever way, could be specific with the committee in terms of, as we look at funding for education and trying to allocate scarce resources, what's actually happening in the schools? Are we seeing larger classes or are we seeing virtually no change, that we're just being more efficient out there? I take from your comments here, because there is no comment on the transfer payments, that the federation feels that's a reasonable response by the government in today's economic climate.

Ms Dempsey: I'll refer to Joan Westcott, executive director.

0950

Ms Joan Westcott: As we noted on page 2, we are concerned that there will be no additional funds available for the per-pupil grant this year. We wait, as do other educators in this province, to find out how the additional 2% fund will be dispersed for this year. We are very concerned. We are hoping teachers will continue to be involved at the local level in the

discussions that will be held at the school board level to see how best those few resources can be allocated.

We're hoping there will be some increase. It is very simple just to say that the current education program cannot survive without some additional funding, but that's about the point we're at, because we know the problems every school board is facing in trying to maintain the current program. So financing continues to be a concern of this organization as it has always been.

Tying into the presentation from the Ontario Teachers' Federation yesterday, I believe you had some examples in that document about what's happening at the local situation. Our teachers continue to be concerned about that. What we are hoping is that the best use of the money that has been announced will be used at the local level. We urge also that the government not back off its commitment to things such as class size and junior kindergarten, because we believe these are key in being able to maintain program in light of the economic times we're in.

Mr Monte Kwinter (Wilson Heights): I notice you stress the need for funding to provide for the mandatory junior kindergarten program. What are your contingency plans for both destreaming and junior kindergarten if the government maintains its stand that it's going to keep the funding to what has been announced with no increased amount of funding?

Ms Westcott: In regard to junior kindergarten, we know there are many junior kindergarten programs in place already in the province. A number of our members who are teaching in primary and kindergarten are qualified and prepared to teach the junior kindergarten program. As to contingency plans, we think it's a matter of assisting the board in putting the necessary resources in place curriculum-wise—resource materials and equipment—for those junior kindergarten programs.

Regarding changes for the transition years, we are working with our teachers in the grade 7 and 8 programs to assist them in preparing for the changes the government is proposing with the transition changes, with the expectation that we will attempt to make the changes as we can in light of the resources that can be available under the current economic situation. It is a matter, again, of detailed planning at the local school board level based on what's available there.

Mr Norman W. Sterling (Carleton): As the son of a mother who taught in the elementary school system for 25 years and raised four kids on the basis of a salary of somewhere around \$7,000 or \$10,000 a year during the 1960s and early 1970s, I know how hard some elementary school teachers work. I know my mom was out the door at 7 o'clock in the morning, out in the school yard on cold mornings, putting work on the board; late into the night, she would stay up marking papers. I know how much extra work she gave to all of the children.

Since that time, things have changed quite dramatically. My mom, who is still alive at the age of 83, watches the teaching profession and watches what's going on in provincial politics from time to time.

We heard yesterday that there's some evidence that Ontario spends more in the education area than just about any other jurisdiction in the world. There's some concern that we don't get a product as a result of that. That kind of question

was put to some of the people in here who were from the post-secondary education sector. They indicated that there were not excessive amounts of money being spent in their area, but excessive amounts of money were being spent in the elementary and the secondary school areas.

If we are spending the most in both of these areas, I'm definitely getting signals from my taxpayers that there aren't any more taxes to be collected. Your brief asks us to recommend to the Treasurer that the elementary system be given even more money. We are spending \$1.20 for every \$1 we're collecting now in the province of Ontario. Our federal government is out of money. Is it realistic to ask for more money at this time? Where is the money going to come from?

Ms Dempsey: Like yourself, I recognize the investment in education that the taxpayers and the government do contribute financially, but I believe that education for children and youth is an investment and it is an obligation that we as adults have and need to take very seriously and continue to do so.

One of the ways we, as women teachers, are proposing in terms of meeting the needs of the whole child is to look at the coordination of services interministerial, and that is occurring. Along with Health and Comsoc, along with Education, we need to focus on the whole development of the child and youth. As an educator, I'm charged with a very serious responsibility of the education component, but if there was better coordination of financial and human resources among the ministries, we might be able to take a more coordinated approach to achieving that investment, because I believe we're all after the same thing, and that is quality lifelong learning for our children and youth.

Mr Sterling: Nobody can argue with the goals. It's like motherhood, in terms of the proposals you put forward; everybody sees that. But there's a problem here that nobody coming in front of the committee seems to be realizing: There isn't any more money. We're spending more than we can afford already. What things are you going to take out of your own system in order to put what you believe is more important in place? Nobody who appears before this committee seems to understand that. Is there anything we can take out of the system in the elementary area, anything significant, so that we can reallocate these funds to some of your priorities?

Ms Dempsey: The elementary system is stretched to the limit at the present time, Mr Sterling. In terms of taking out, I'm trying to understand where you're coming from. I'm trying to refocus it back to the obligation which we as adults have within this province for the quality lifelong learning of our children and youth. That has to be a priority and I believe that has to continue to be our focus.

Ms Anne Swarbrick (Scarborough West): Both as a member of a government that's trying very hard to do progressive things in spite of governing in the midst of the worst depression since the 1930s and as somebody who hears a lot from my own constituents as well about the great concern over taxes, deficits, but protection and improved quality of the services they need, I want to say a very big thank you for your presentation in terms of (1) the recognition you gave of the problems we're facing, (2) the kind of positivism you've expressed around some of the things we have been able to do

and policies we are trying to put in place in spite of the difficulties of today's economic climate, and (3) to very much recognize the spirit of strongly progressive commitment you've expressed as an organization. I don't think I've heard one word of self-interest; instead, simply the massive commitment I know your organization has to the wellbeing of the children in this province.

1000

I want to say a very big thank you, because it seems to me that today there is too much of a spirit in this world of people being so me-oriented instead of other-directed, and I think you express the spirit of being other-directed.

I think what you're hearing in the questions from all of us on this committee, though, given our shared concern, also what we're grappling with in terms of that economic climate I've made reference to—I'm wondering if there's anything you might say with regard to the issue of whether there are any ways we as a province can help you any further within the school system, in terms of the kind of creative redistribution that might need to happen to try and help meet what you see are the real needs of the children? Or do you feel there are some specific extras in terms of financial resources you need, and can you give any added specifics with regard to what you feel is absolutely mandatory?

Maybe I should have asked that the other way around, because I'm hoping to hear more that you feel there are ways we could help further in terms of the creative redistribution.

Ms Beverley Gardner: I think the creative problem-solving you are speaking about can occur and does occur at the local school level when teachers and resource people can get together to deal with a specific problem that is presented to the school.

Perhaps I can give a personal face to it. My responsibility for the last few years has been as an elementary school principal. With the staff in a school that would be seen to be fairly typical and somewhat privileged in Ontario, in comparison to children in schools elsewhere, the face of the school has changed. We had a group of teachers come together and look at how we can integrate children who come to us with severe behavioural difficulties, have a lot of difficulty fitting into the routines in school. We know those kids are right to be there and we have a responsibility to see that they get the best education possible. My concern as an elementary school principal is that if we can't continue to provide at least the baseline support we have in terms of resources other than a classroom teacher, I don't know how more creative we can be in helping keep those kinds of kids productive and happy and changing the direction they might otherwise be in.

I'm coming at it a bit backwards. We need to be sure that the resources that are in place—the child care workers, the psychological services, the additional counselling that's necessary, the administrative staff in schools—aren't reduced any further. My fear is that there is no other place to reduce, and boards have reduced at the support level.

The Chair: Presenters, I'd like to thank you for coming before this committee. Some of the information you've given us is a little different from some of the other presenters' and we appreciate it.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Chair: The next group we have is the Ontario Secondary School Teachers' Federation. Would you come forward, please. For the purposes of Hansard, we all know you, but as I said earlier, we need to put it in print, if you don't mind identifying yourselves

Mr Chris Malkiewich: I'm Chris Malkiewich, chair of education finance, OSSTF.

Ms Liz Barkley: Liz Barkley, president of OSSTF.

Mr Larry French: Larry French, legislative research, OSSTF.

The Chair: Do you work for the Legislative Assembly, Larry? Okay; I thought you were one of those guards up there.

Ms Margaret H. Harrington (Niagara Falls): Mr Chair, Mr Malkiewich is from Niagara Falls.

The Chair: Okay; thank you. You may begin and we have until 10:30. If you can leave some time for questions at the very end, I know the members of the committee will have quite a few and I'll have to cut them off, I imagine, at times. You may proceed.

Ms Barkley: Good morning. We are very pleased to be able to present to you today the OSSTF report, Fair Taxation for Responsible Education, in which we have 43 recommendations to make the system of taxation fairer in Ontario. This report was produced by the OSSTF funding initiatives and new directions committee, the FIND committee, and is our submission to the Ontario Fair Tax Commission.

With me today are members of the FIND committee. They are Larry French, OSSTF director of external policy, and Chris Malkiewich, the chairperson of our educational finance committee. We'd like, really, to address the question of where funds could be changed and could be accessed for the educational system. Within our report we have two presentations to make.

The genesis of the FIND committee can be traced to the 1990 provincial elections. At that time OSSTF undertook a campaign based on the slogan, "Underfunding public education is child neglect." During that election campaign, the NDP promised to return to 60% funding of real education cost, a stance which won it significant support among our members. We were further pleased when the government set up the Fair Tax Commission to investigate and recommend better, fairer ways of taxation. But since the election this government has reduced its share of educational funding even more drastically than did the preceding government, with the result, I know personally, that many educators across the province are very disappointed with the gap between promise and performance.

That aside, OSSTF is pleased to present its report with its 43 recommendations. OSSTF/FEESO recognizes the terrible physical jam in which many property taxpayers and the government find themselves. We also recognize that Ontario must have an excellent educational system. We believe that answering the concerns of taxpayers and giving the best service to society are not incompatible. It is possible to provide excellent service to our society without taxing it to death. This indeed is an absolute necessity as we are facing the most

serious challenge to the universality of publicly funded education we have ever encountered in Ontario, and its major expression is in the tax coalitions and the several tax revolts happening in various parts of this province.

I am not, however, going to attack these groups. In fact, the FIND committee in some ways finds itself in agreement with some of their approaches. Taxes are too high on property taxpayers. We agree with that; they are too high. There is too much duplication, most of all in education, with three publicly funded systems—three. We cannot afford that. OSSTF is completely supportive of the property taxpayer who is unable to understand why, in a period of low inflation, he or she is getting walloped—well, hit—with double-digit percentage increases. But what has spawned the tax revolt has been the economic policies of the federal government. We are here not to simply lambaste the federal government for its policies, but to recommend relief.

First of all, we recommend that low- and middle-income earners should receive a tax break. This is always the group which gets hit and it's time, we feel, that they got a break. The other group we say must get relief are property taxpayers. The property tax, especially when it is expected to be the major source of funding for education, is enormously regressive. Tinkering with rebates and allowances is just that: It's tinkering. If this government thinks property taxpayers are going to continue to cough up money from a bottomless pit, it is sadly mistaken.

It is time the NDP started to make good on its promise to restore 60% provincial funding of real education costs. Many educators supported them in the last election just because of that promise: 60% funding.

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The issue then is, where does Ontario find the money to give this relief? OSSTF recommends several steps. First of all, cut out systemic waste. We have to learn to maintain the constitutional guarantees for public, French and Catholic education while creating a sensible structure—I underline “sensible structure”—to deal with the enormous costs of running three duplicate systems.

The confederated school board is our proposal to accomplish these goals. It is well delineated in our brief here. I know this is not a popular thought among some establishments in Ontario, but many people now—as far as we can ascertain, the consumers of educational services—by and large are beginning to agree with us. We must eliminate needless duplication, thus saving millions of dollars. We are not talking of undermining constitutional guarantees again. We are talking about common sense from a business, administrative and educational point of view.

We are also suggesting a solution to the pooling of taxation for separate and public education. Right now, across Ontario both separate and public boards have hired staff to go out after assessment for their own boards, on salary. A board can argue that an assessment hunter—and we call them that—will pay for her or his own salary, but you and I know who's really paying those bounty hunters, and that is the taxpayer. Let's get these dollars back to education instead of to the bounty hunters. If Ontario confederates boards as we have recommended, then OSSTF is willing to support the local pooling of assessment. Goodbye, bounty hunters.

Like the other people in this room, I welcome the opportunity to pay my fair share of the burden of maintaining an advanced, well-educated society, but OSSTF believes that taxpayers more than anything else demand and must have fairness. Fairness is not fair, nor is it perceived to be fair when major corporations manage every year to whittle away their share of the tax burden. We recommend that there be a minimum corporate tax, that the share of revenue from corporate taxation be fixed in a ratio to the personal income tax as a percentage of gross domestic product.

Just as an example, in 1988 through 1990, each year the insurance industry had profits of \$1 billion and paid no taxes, and it is not the only corporate sector where that occurs. Since 1984, when the Mulroney government came to power, the share of taxation paid by corporations has fallen from 15% to 8.7%. That does not seem fair.

Right after the war, the corporations paid 50% of taxes of the total revenue: 50% was paid by the corporations. In 1984, they paid 15% of the total and now they pay 7% of the total, and many pay nothing at all while personal income taxes continue to escalate along with sales taxes.

As part of this package of recommendations that OSSTF is presenting, we recommend that many of the loopholes open to the well-to-do and corporations be closed. “Fair is fair” should apply to everyone, not just middle-income earners. The other place where there should be real revenue for Ontario is from federal transfer payments. If you look on the first page of the executive summary you can see—and I won't read them out to you—what we mean by the—

Mr Phillips: Are you reading from somewhere or is this—

Ms Barkley: No, I'm reading a totally different thing, trying to get everybody to pay attention, you see.

Mr Phillips: And then you told me to look on the page here and you threw me off.

Ms Barkley: Fooled you. I'll start that again.

We were talking about federal transfer payments now and the problem that they're causing to both provincial and of course municipal governments. What has happened is that the federal deficit has been pushed on to provincial shoulders and subsequently on to the shoulders of the municipalities and then to their property taxpayers.

It's time that we woke up, that all people woke up. The property taxes cannot carry the federal deficit, and that is what Mulroney has done to it. He has forced provincial governments to underwrite the federal deficit and property taxpayers are shouldering the greatest part of this increase. No wonder there is a property tax revolt.

We also believe that our government should pull itself into line with other public servants. You're not going to like this, but let us end the tax-free salaries for MPPs, MPs and senators. They should not be out of pocket for public service, for sure, but they should also not be given private pork barrels. Their pensions should also fit the rules for other public service funds. As it is now, age 55 is, for most people, the earliest at which they may claim a pension. MPPs, MPs and senators should live by the same rules.

Finally, let me stress that the real key to adequate and fair education funding is prosperity. We know that. We need to

keep in mind that Canada's competitiveness is only enhanced by its investment in education, and we have a huge workforce of highly motivated people who are returning to high schools, hundreds of thousands each year. We need to make sure that we give these people the educational services they need. In that way, we will go a long way to maintaining and enhancing the competitiveness of the Canadian workforce, and these are people mainly over 18.

Now I would like to ask Chris Malkiewicz to give you a five-minute overview of the follow-up to the FIND report, the OSSTF proposal—this is the blue one—for education funding in Ontario, Adequacy, Equity and Democracy. We will obviously be pleased to answer questions at the end.

Mr Malkiewicz: Adequacy, Equity and Democracy contains 36 recommendations for looking at the system that funds education and how we can change it. Let me state, first of all, that most of the problems, or some of the problems that have occurred in the funding system have come not because of the province's fault, but because of federal programs as well. The system started off as one of the best funding systems anywhere in the world.

Having been at the American Education Finance Association conference for several years and seen presentations from around the world and having done studies comparing our system, it stood up very well for very many years; however, it's now stretched to its limits. Part of the problem is competition for the same funds and duplicate boards, competition from duplicate programs, and also the introduction of new program after new program after new program with no new resources.

Education needs a real costing, and not just from the people at the ministry but from the people who deliver it, all people who are involved in the programs and all stakeholders; for example, the cost of destreaming. Special education needs need to be addressed and costed in a realistic fashion, otherwise these people will be lost.

Part of the problem which now exists and may exist in the new grade 9 program is a change in funding where a student now crosses a street, changes from an elementary to a secondary level and changes category and, therefore, funding.

Lifelong learning needs to be dealt with and we need to address training at all levels for those who need to come back and be competitive in a workforce. A possibility for doing this would be to provide a flexible school day and different sites for education delivery. This would allow boards more freedom in how they actually spend their money.

We also believe that there should be boards to allow for a local level and local input. Confederated school boards would get rid of duplications while guaranteeing all rights. Pooling of commercial and industrial taxation should exist where there are confederated school boards.

It's interesting to note in a study done by OSSTF that in the last 15 years the greatest increase in costing occurred at the administrative level.

Transportation, with the little yellow school buses that cause so many problems, needs to be looked at. One of the ways to help solve this problem is to provide a minimum walk distance set by the politicians; also, the use of local transit to a greater extent.

A database which is accurate and which is available to all needs to be produced so that all people looking at education funding can take a look at the reporting and also the costing of education in real life. Real money and grants, not fake money or reassigned money, need to be handed out when grants are put out. Quite often when grants are announced, that money does not really exist, nor is it ever handed out. It makes it very difficult for boards to plan and provide services.

Long-term plans for integration of students who are both physically and mentally challenged need to be addressed. You cannot expect boards, in a time of very little money being put out to them, to provide all services at all locations. In this light, new designs for schools with multiple uses and community access should be used. There needs to be the addressing of adult basic education. FSL, ESL and credit courses need to be looked at.

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We also suggest that flow-through moneys from the ministries of Health, Transportation and Tourism and Recreation be set up. Part of the problem in education is the fact that some of the services which used to be provided by these ministries are now in the jurisdiction of the school boards and no funding has come from them.

A corporate surtax to replace the business tax for training needs to be set up. The number of trustees, directors and superintendents needs to be changed so we can share these facilities and again save money. The mandating of professional support people for education with flow-through money needs to be addressed. Part of the problem that was made at the presentation before is the fact that there are long waiting lists and there are no support groups within schools which ensure a high success rate for students.

The rest of the recommendations are in the book and what I've tried to do is group them together for you, Adequacy, Equity and Democracy, the blue one.

The Chair: I guess we'll start off with Mr Sterling, and don't get Liz upset—she's already wound up this morning—because I can only bang the hammer; I can't protect you. Go ahead, Mr Sterling.

Mr Sterling: I must say, as a member who put forward during the debate on Bill 30 an amendment during the process that at least boards of education be given the opportunity to amalgamate, which was rejected by both the Liberals and the New Democratic Party at that time, we do have some empathy for at least a voluntary kind of situation which could take place in order, hopefully, that some efficiencies could be taken.

I guess it's perhaps being a bit of the devil's advocate. An MPP gets paid around \$65,000 a year when you add in everything. That's roughly equivalent to a senior teacher or perhaps an assistant department head. A principal in my area gets paid about \$90,000 and a director of education gets paid about \$125,000. I'm elected by about 90,000 to 100,000 people, my job is up for review about every three and a half years, the average life of an MPP is about—I guess it's less than five years now. I'm just wondering, where do you rank an MPP in his importance or his responsibility—

Ms Barkley: His or her.

Ms Swarbrick: Or hers; thank you, Liz.

The Chair: I told you, Norm.

Mr Sterling: I mean, if you want to put other things into it. Where do you rank his responsibility with that of those within your own profession? Do you think he or she is more or less responsible than a teacher and the vulnerability of his position or her position is equivalent to a principal or a director of education? You can't have it both ways. You're taking a crack at us, yet you are one of the very highest-paid public professions in this province. Give us your evaluation.

Mr French: That's a very interesting question. OSSTF has long believed that our political leaders and elected leaders should be compensated adequately, and it's our opinion that you're not. The leadership you must show must attract good people, must retain them and must recognize that. What we are worried about is the tax-free allowance, that the perceptions of a tax-free allowance are not any good. It should be folded into salary and everybody pay taxes like everybody else.

However, in defence of the teaching profession, the teaching profession, education, underlies all other public enterprise, you might say, and in order to produce doctors, lawyers, whatever, MPPs, we must have a good basic education. It's of fundamental importance to society, and therefore educators have to be recognized too. We have one of the highest-qualified staffs in the world in Ontario, we're pleased to say, and I think they can stand up with any teaching corps in the world. Our society is getting to the point of recognizing that, and we think it's healthy. If you don't, you end up with what's happening in England, where we've got something like 10,000 teachers who are teaching outside their subject area. They can't get these people. Chris has pointed out in some of his educational finance committee studies that in the States up to 90% of the teachers of science and math are not qualified. They can't get the qualified teachers. In Ontario, we're still doing that.

Mr Sterling: So you think we should get paid more, is that your answer?

Mr French: And it should be taxed.

Mr Sterling: That's fine.

The Chair: Mr Sterling, I've got to go on to Ms Harrington. Ms Harrington has the next question.

Ms Harrington: Thank you very much, and it's nice to see Chris here. I believe we taught together. Was it science, about 15 years ago at Westlane?

I found this process very helpful both yesterday and today. Yesterday we heard about the basic inequities in the funding and the property tax crisis, of course, which you have again mentioned, the need for less red tape and the capital grants process between boards. So there are a lot of really important things coming, and what you've proposed today is a fundamental type of change in the system.

The question I would like to ask you is that I think more and more people, as well as politicians and the people out there whom you're speaking about, are probably coming to some of those same conclusions. As times get tougher, change looks easier, or at least we're pressured towards more fundamental change. My question is with regard to the profession, the other federations. There needs to be a broad consensus for change before it can happen. We can't just impose

it from the top down. Have you been working closely with other groups in education to come to these same kinds of conclusions, or are you at the initial stages?

Ms Barkley: There is a twofold answer to that. Initially, when we proposed this, it was very threatening, particularly to the separate school system, so they still have many questions around it. It would not be threatening, I don't think, to any of the public school associations. What the separate school teachers and French teachers would want to make very sure of before this was pursued was that their constitutional rights both to the French language and the Catholicism of the separate schools were protected within whatever model was pursued.

We know that many trustee associations, certainly in the public sector, agree with it simply from a very pragmatic point of view of costs. Metropolitan Toronto really reflects that, I think, and the Ottawa area reflects a duplication more profoundly than any other area in the province. I would assume, just knowing that change is slow, is that what will occur, almost by necessity, is that in the proposals from any government—your government, any other here—would be that some of the duplication that exists now within the system, ie, the buses etc, would be mandated. They would be changed because they are expensive, excessive etc, and then slowly, as people began to find this amalgamation, confederation or whatever you want to call it less threatening, I think we would find more and more we would go towards one system, again making very sure that the constitutional rights of all the constituent parts were protected.

We're dealing with community meetings now through OSSTF with destreaming, decrediting, the "de's," and one of the things the parents are saying to us is that the systems are too expensive. We bring forward this particular proposal and it is one that, regardless of the religious background of the person, as long as you say, "You're protected," they seem to find very, very worthwhile, and it is a saving. It is a fundamental saving, and we think educationally very sound.

Ms Harrington: I would urge you to work with the groups and I would urge us to work in our ridings doing that.

The Chair: Mr Ward wants a question.

Mr Brad Ward (Brantford): One quick one.

The Chair: Yes, you've got time for one quick one.

Mr Ward: I'd like to thank you for your presentation. I think you're one of the few groups that suggested not only what you feel is important in expenditure but also how you think the government can raise the revenues to pay for that direction.

The one thing you would like the Treasurer to hear as far as the OSSTF is concerned loud and clear, is it not, is that the government should this year begin to move towards the 60% funding as far as provincial education is concerned. Is that the one message you'd like the Treasurer to hear?

Ms Barkley: We have a multiple message. That's one, because it has been a promise. We recognize it's difficult to achieve in this period of economic crisis; there's no question. But a move in that direction, not away from it, would certainly be something we and the teachers would look on very happily.

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The confederated school board is very important. We would also ask you to deal with the questions that were asked earlier, I think. We would ask you to look at the 43 recommendations that we think reallocate resources and bring some new things into the system without disrupting the economy and would improve the system and would improve education. There are 43 recommendations here which we think deal with fairness. The 60% funding certainly is one, and the confederated school board, but also look at the changes in the tax system as well.

We sort of have it as a package. If we had to say one, certainly 60% funding is important; the confederated school board, too.

The Chair: I'm going to go on to Mr Phillips, the man who had his hand up first.

Ms Barkley: I bet I can guess.

Mr Phillips: An area that we need your advice on is in many respects the big money item in the budget, and that's the pensions. As you recall, the government was supposed to pay the teachers' pension, this fiscal year, \$938 million. The government paid \$438 million and delayed paying you \$500 million. I've been critical of that, not with the teachers but with the government, because we're paying 11.25% interest on that. That's \$50,000 a day extra interest payments we're making just for the optics. It's a complete waste of taxpayers' money. The teachers are quite correct in asking for the 11.25%, but the government is wasting \$50,000 a day on it, because we could have borrowed the money \$50,000 a day cheaper on the marketplace. So I've been quite critical of that.

Next year, the government is supposed to pay you \$1.044 billion in the pension plus the \$500 million that it owes you from what should have been paid this year and is being put into next year. By the way, that's 1% of the budget which has been delayed just for the optics of saying we're spending \$500 million less.

My question to OSSTF—to Larry, I guess—is: Is it your expectation that the government will pay you both your payment for 1993-94—that is, the \$1.044 billion—plus the \$500 million it owes you from this fiscal year in 1993-94, the upcoming year?

Mr French: Our understanding of it, Gerry, is that through the OTF, the partnership arrangement, all those things have to be negotiated by mutual consent. I think we would agree with you that the most economical way of putting the funding into the pension fund is the way to go. The way I think it was explained to us was that it wouldn't be a major increase cost to the government because either it pays the money first outside the fund or it goes into the fund and it earns the revenue from within the fund. But I don't think there was any agreement, certainly that we've been informed about, that there would be a major change in the funding into the fund.

Mr Phillips: I know Monte has got a question, but I wouldn't mind maybe a follow-up letter just on what your expectation is, because in my opinion the numbers are understated by \$500 million this year, and it's a penalty of \$50,000

a day. Next year we have a decision: Is it going to be a \$1.044 billion or is going to be \$1.6 billion?

Mr Kwinter: In the two documents that you presented there are 78 recommendations. I find it strange that there isn't one single recommendation where the teachers themselves feel that they are a part of the problem and that something should be done about that. I have had constituents over the years call me complaining about things like 12 months' salary for nine months' work, professional development days, teacher tenure, all of the areas that have to be addressed somewhere along the line, whether it's year-round teaching or things of that kind.

Could I get some kind of a comment as to why the teachers have not looked at themselves as being part of the problem and offered some solutions?

Ms Barkley: We do, I think, often try to offer solutions as we proceed. The way we offer the solutions normally is through the collective bargaining process. I think you know that. For example, we've not disagreed with year-round schooling. We have just said that the rights of teachers within that year-round schooling had to be protected. Boards, simply through lethargy or whatever, just have not incorporated that.

We're trying to deal with the whole curriculum reform by trying to make very sure that what was happening last year—for example, when they would destream grade 9, you would say this was the teachers' fault, if you had a grade 11 son or daughter, that they were putting more resources and smaller classes into grade 9 while doing away with some programming, and large classes in 11 and 12. You would say that's the teachers' fault, or the timetable or the school, but it wasn't. It was a problem of something external, and we always try to at least bring those things in.

When you indicate that we are paid a 12-month salary for 10 months of work—

Mr Kwinter: Nine months.

Ms Barkley: Would you go away?

Mr Kwinter: I have been a teacher. My wife is a teacher.

Ms Barkley: I know your wife's a teacher in Scarborough. We don't agree with that at all. I find it quite ludicrous. I wonder what you think we do over March break and Christmas.

Mr Kwinter: I know; my wife comes with me to Florida.

Ms Barkley: Your wife's going to get into trouble right now. I can't speak for all affiliates—it would be unfair for me to—but we have an awful lot of teachers, particularly now, over 70%, who are taking summer courses of some variety to try to prepare for all the changes that are occurring. That is almost continuous.

I'll tell you one thing, though, that you may not understand. The workload on teachers, because of all the changes—decrediting, detiming, holistic etc—has increased markedly. We have the second-highest burnout rate, compared to air traffic controllers, in the workforce. Unless you want a dead teaching force, there has to be some time for them to breathe, and there's an awful lot of requalification that goes on.

Remember something: As you criticize salaries, which I think you're about to do, as you've done to me before, you have to really take into effect that we've got the best teaching force here now. We do. We don't have everybody rushing to the private schools, as you do in the United States, or a very inferior situation, as in Britain, where you don't have qualified teachers, you have 10,000 empty classrooms and those who can afford it get a good education. We're trying to preserve within the context of Ontario the universality, the equity of education for all, while still trying to retain its pluses.

I would suggest to you that we are always open to any change. You propose concrete changes of how we should change the teachers or what we do. We would be very happy to dialogue with you. We do change. We change very quickly because we get the impact out there in the society of new forces coming into the school. We're constantly changing, but we would be happy to hear any proposals from you.

The Chair: Okay; time has expired. I can say one thing, Liz: In half an hour you were able to actually talk what would take someone else one hour. I had to listen really closely, because you talk very fast. I'd like to thank all of you for coming forward to this committee for your presentation.

Ms Barkley: I just want to stress one point here, because I know, as Gerry was pointing out, that the documents got a little confused. This is an actual model for funding, a model for across the province. The other is much more dispersed. Thank you very much. I appreciate your hearing us.

ONTARIO PUBLIC HEALTH ASSOCIATION

The Chair: The next group to come forward is the Ontario Public Health Association. I'd like to welcome you to the standing committee on finance and economic affairs and our pre-budget consultations. You are familiar faces, your group. We have half an hour. We'll go till 11:05. If you can leave some time after your presentation for members of the committee to ask questions, and if you could identify yourselves for the purposes of Hansard, you may begin.

Ms Audrey Danaher: I'm Audrey Danaher.

Ms Nancy Day: I'm Nancy Day.

Mr Peter Elson: I'm Peter Elson.

Ms Day: I would like to extend appreciation for the opportunity to once again address this committee about the issues, as we see them, in the public health area.

The mission of the Ontario Public Health Association, OPHA, is to strengthen the impact of people who are active in community and public health throughout Ontario.

Our members are drawn from every discipline and location within the province of Ontario, from Windsor to Thunder Bay. They include people from community health centres, public health units, universities and community agencies.

Community health centres provide a comprehensive response to specific populations. Public health units are the only structure in place in Ontario with a mandate by the provincial government to promote health and prevent disease. This activity covers the whole province and every community within the province.

Public health workers work collaboratively with community literacy groups, schools, social service agencies, community residential facilities, and commercial food and

recreational facilities to prevent disease, educate, foster healthy and supportive environments, and inform and refer people to other human service organizations in their community. As one district health council executive recently stated, "Public health is the first line of defence in a community and it's the first line of opportunity to create a healthy community."

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In the past year, OPHA has become increasingly concerned about the lack of concrete action taken to implement the strategic directions for provincial health reform, as announced by the minister, the Honourable Frances Lankin, on January 19, 1992. This lack of action has had a direct impact on public health.

Last year, OPHA came to you with the message that an investment in community and public health is an investment in healthier places and healthier people; an investment in prevention contributes to keeping Ontarians as healthy as possible for as long as possible in places where they live, work and play; an investment in prevention pays dividends in a reduced number of accidents at work, on our highways and in the home.

Someone wasn't listening.

Ms Danaher: Public health units throughout Ontario are experiencing an unprecedented erosion of their capacity to fulfil their mandate, as defined by the Ministry of Health. This week, a potential layoff of 20 public health staff was reported in York region. In Kitchener-Waterloo, public health staff watch as 30 positions are put on the block. Managers and supervisory staff across Ontario are taking unpaid leaves. Gapping, using current workers to take over the workload of anyone who leaves, has become the order of the day. While maintenance agreements for computers might be considered part of the cost of doing business, training budgets for dedicated professional and support staff have either been slashed or eliminated in their entirety.

What do these cutbacks mean? School students will miss public health input in classes on human sexuality, nutrition and smoking. What do these programs prevent? A wide variety of sexually transmitted diseases, diminished health status due to poor eating habits and lung and other diseases resulting from tobacco use.

As other programs are eliminated, we can expect increased isolation, neglect and premature institutionalization among our growing population of seniors and incidences of family violence which could have been prevented. Therefore, while government policies champion the virtues of disease prevention and health promotion, the very people who work on their front lines and communities across Ontario justifiably feel that their work and their positions are being devalued.

While the shift to community-based services has the full support of OPHA and its 3,000 members, the gap between the rhetoric and the action continues to widen; in short, less support to health workers and community groups at a time when our economic and social fabric is being tested to its limit.

We support the action which has taken place in the last year on hospital reform, review of laboratory services, the drug benefit program and long-term care. This needs to occur if we are to shift towards a system which is focused and

based in and with the community, yet to date we have not seen any resources committed to the structural and systemic changes necessary to support health reform based on the health goals for Ontario.

OPHA calls on the government to develop a comprehensive financial strategy to reallocate resources to community-based services.

We have followed the government's various announcements regarding the tremendous difficulties encountered in dealing with the deficit, yet we believe it is possible to address the deficit while phasing in the incremental allocation of dollars to community-based services.

Therefore, OPHA calls on the provincial government to make a commitment to reallocate 0.25% for 10 years to shifting the resources to community-based services. In 1993-94, this would amount to \$35 million from a health system management budget of \$14 billion.

For public health units, even a reallocation of resources will be reduced to rhetoric unless attention is given to disentanglement. We have no evidence that this government is prepared to put public health on its disentanglement agenda with the Association of Municipalities of Ontario, yet the existing double-jeopardy funding arrangement between municipalities and the province continually strikes at the heart of public health programs and services. This must be addressed in the context of health reform.

OPHA calls on the government to initiate negotiations with AMO in the next 12 months.

Ms Day: The Healthy Communities Coalition, of which OPHA is a part, calls on the government to support the healthy communities movement as a cornerstone of health reform in general and community health in particular. OPHA adds its recommendation to others who have seen this concept adopted worldwide from a health conference which took place here in Toronto.

Healthy communities support active participation by their citizens in decisions which affect the social, environmental and economic health and wellbeing of their community. It provides a framework to assist communities to make better use of existing resources and assess the impact of local governments' decisions in promoting health and wellbeing, and fosters intersectoral partnerships.

The provinces of British Columbia and Quebec have already made a substantial investment in healthy communities for these same reasons. We call on the government of Ontario to do the same.

Mr Elson: Healthy and safe communities: The value of an investment in the prevention of heart disease and tobacco-related illness has been well established. OPHA is here today to bring your attention to an issue which we feel is equally important: injury prevention.

In Ontario, injury is a leading cause of death for the under-44 year age group. It is the fourth leading cause of death for all age groups. Motor vehicle crashes, which are only one type of injury, claim one life every seven hours in Ontario. More than 120,000 people reported personal injuries from car crashes; that's in one year. Head injury is the primary or contributing cause of death in about 80% of bicycle

fatalities, yet of the 2.5 million bicyclists 16 years of age and older in Ontario, 90% report never wearing a helmet.

The direct and indirect cost of injury in Canada is approximately \$11 billion. On the basis of proven strategies, 29% of all childhood injury deaths and 85% of motor vehicle accidents could be prevented. An estimate of the direct and indirect cost of injury in Ontario amounts to more than \$4 billion a year.

In 1985, the United States National Academy of Sciences stated that "injury is probably the most underrecognized major health problem facing the world today, and the study of injury represents an unparalleled opportunity for reducing morbidity and mortality and realizing significant savings in both financial and human terms—all in return for a relatively modest investment."

Therefore, OPHA is justified in asking, what is being done to prevent injuries in Ontario? Injuries can be prevented and predicted. Known strategies reduce injuries, yet Ontario has no comprehensive system to coordinate injury prevention programs, no provincial goals for injury prevention and a minuscule budget.

OPHA has conducted a comprehensive study of injury in Ontario and has established the following priorities for action: prevention of motor vehicle occupant injury in 16-24 year age group; prevention of cyclist injury in the 5-15 year age group; prevention of unintentional falls for the elderly; prevention of motor vehicle occupant injury in all age groups by increasing correct restraint use and by decreasing the incidence of impaired driving.

What, OPHA asks, is the current government doing to prevent injuries on roads, bicycle helmet injuries and falls among the elderly? The current direct investment by the Ministry of Health in injury prevention is approximately \$500,000. A modest 0.1% investment in prevention programs and strategies to combat injuries would be \$4 million.

OPHA calls on the government to use existing and proven strategies including public education, legislation and engineering knowledge, existing research expertise and existing non-government organizations and community agencies to reduce the incidence of injuries on streets, roads, in homes and in workplaces.

Unless injury prevention goals for the province are established and financial resources are both allocated and coordinated to address these themes, people will continue to die or sustain crippling injuries. Ontario has invested tens of millions of dollars in treating injuries. Now is the time to invest in injury prevention.

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Ms Day: In conclusion, a reallocation of \$3.61 for each citizen of Ontario within the Health budget to community and public health in 1993-94 will reduce visits to physicians, illness, hospitalization, family violence and injuries while promoting healthy places and healthy people throughout Ontario. OPHA supports health reform. This reform requires commitment, policy and action. A Vision of Health: Health Goals for Ontario provides the policy. We've heard about the commitment. Crisis or opportunity: It's your choice.

The Chair: I'm going to Ms Coppen. I didn't see her wave her hand, but I was going to ask her to ask the first

question because she's involved with healthy lifestyles, I believe in the Port Colborne area, and has been promoting health care in her area. So not even looking at any one else, you've got the floor, Ms Coppen.

Hon Shirley Coppen (Minister without Portfolio): This seems ironic, because I'm so sick with a cold right now. I haven't been following what I've been preaching. If I could ask you a couple of quick questions, who do you get your direct funding from, municipalities?

Ms Day: Our funding comes from a variety of sources. We have a small sustaining grant from the Ministry of Health. We have membership dues because we are a nonprofit association. We also do projects and get grants for doing those projects and that also helps with our funding.

Hon Mrs Coppen: When you talked about injuries and the different programs, correct me if I'm wrong, please, but when we talk about injuries in the workplace, there has been an intensive education program by the Ontario Federation of Labour, from the Ministry of Labour. I was a health care worker in a hospital and there was a very good training program from the Ministry of Health. When we talk about potential injuries out in the public, our local police departments, with the community-based policing, are out there educating people. I see a duplication over and over, and these people are helping out in the community.

Mr Elson: Yes, there is. At this point there are very sort of fragmented and uncoordinated, basically, programs, if you want to call them that. They're a program a particular police department might evoke but it's not necessarily province-wide. There are some programs public health units are engaged in, but in many cases they're not necessarily coordinated with what the police are doing.

Hon Mrs Coppen: If I'm correct, then you see an umbrella from the public health making sure that every community in the province is serviced and all the safety programs are made known to the citizens, correct?

Mr Elson: Yes. As I said in the brief, there are no injury prevention goals for the province, so in fact there has not been an opportunity to date for all those multiple stakeholders—the police, the fire departments, the ambulance attendants, the schools, the public health people—to actually come to—

Hon Mrs Coppen: So it's been haphazard.

Mr Elson: It's been extremely haphazard, and in these days of diminishing resources, there are some things—you may have, for example, a group that's doing a program on snowmobile safety in one area.

Hon Mrs Coppen: To reduce your anxiety about the head injuries on bicycles, about people not wearing bicycle helmets, we have a very progressive member, Dianne Cunningham, who is from the Tory party, and she led the fight in this House that there be mandatory bicycle helmets. In my own riding, I am hearing people complain about it. Can you believe that? We all owe her a big thank you that she was so progressive and pushed for it in this Legislature.

I wish you well. Thank you very much for your presentation and your message has been heard.

The Chair: Mr Ward.

Mr Ward: I was only kidding.

The Chair: Oh, you were only kidding; okay. Mr Kwinter.

Mr Kwinter: In your presentation you call for a reallocation of resources from the institutional health care to the community health care. Yesterday, we had a presentation by the Ontario Hospital Association, and one of the comments made was that there was monitoring, that there were standards, that there was control over the institutional health care sector but that this didn't exist in the community health care system. Do you have any response to that? Do you have any comments?

Mr Elson: Just a point of clarification: You said "standards"?

Mr Kwinter: The point they were making was that in a hospital there are international regulatory agencies that monitor the hospitals, regulate them as far as their operations are concerned and that they all have to be accredited. They have to be accredited by the various organizations that take responsibility for these hospitals, and most hospitals take great pride in their accreditation. Their comment was that this does not take place in the community health sector. I'm just asking for your comments as to whether or not you agree, what the standards are and what is happening out there.

Ms Day: What is happening in the public health area is that the Ministry of Health has developed mandatory programs and guidelines which all 42 health units are required to implement. Each year we are sent forms which we are required to fill in to address what we have done under each of those. Under the act, we are required to fulfil those mandated programs.

Mr Elson: In addition, contrary to the statement that was made, in fact there is an accreditation program, in which the public health units in Ontario take equal pride. The Ontario accreditation program has been in place for some time, and independent auditors review the performance and the activities within the health units on a rotating basis. So that program does exist and it's in operation.

Mr Gary Carr (Oakville South): Thank you very much for your presentation. I agree with Shirley about Dianne and the great job she did with the helmet bill, and I'm glad to see you support that. There's another one: You pointed out the accident deaths of people 16 to 24. I went to speak to a high school a little while ago, St Thomas, and I thought the big questions would be on health care or education or getting jobs. All the kids wanted to know was about the bill they'd heard about, which was graduated licences. Of course, they were opposed to it: "I want to drive. When's it coming in?" What is your feeling about that bill, the graduated licences to reduce the number of accidents among our young people in this province?

Mr Elson: A licence as a right of passage, as it were, is something that has certainly been with us for some time. I have made available to the committee the research report that we did on injuries in the province, and there's absolutely no question that the age group of 16 to 24 years of age not only results in a combination of more accidents, but I think when a young person gets severely injured or killed, it's a tragedy

that's hard not only for parents and families but also for communities to live with.

I think it has to be put in that context, that the risk is known: When you combine inexperienced driving with hazardous conditions or impairment, the combination is lethal, and it has been. We have to recognize that. There has to be responsibility, because we pick up the cost of that not only in social service agencies and in families but also in the emergency wards of hospitals right across the province.

Mr Carr: Plus I know it's a big issue in our area because we had a group of kids who were killed at that age and they were piled in. So I appreciate your support and input on that. I want to go to another issue, the issue of funding. The Treasurer came before this committee earlier this week and complimented Frances Lankin. I notice you talked about the cutbacks and were a little bit critical of the funding issue. He came before this committee and for the second time that I can remember—because I remember he did it in the House—said she has been a fantastic Health minister, that she's made all these cuts, that the growth has been less, that it's been the best we've ever had in health care increases, that she's done a terrific job and that there hasn't been any effect on the health care in the province.

In my particular area, I had to miss a meeting this morning with my hospital in Burlington, Joseph Brant. It's going through some more layoffs and cutbacks. One of the questions I asked them was, "What has happened in terms of delayed surgery as a result of some of these cutbacks?" They said, "We don't keep the stats." My feeling is a lot of the negative stats that may be out there saying, "We've delayed X number of operations this week because of cutbacks," aren't kept because they would embarrass the government.

You've got a Treasurer who comes in and says there's been no impact on the health care system. You come in and say, "We're at a crisis point." What would you say to the Treasurer, who says there has been no impact on health care with the cutbacks that his minister, Frances Lankin, has done?

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Ms Danaher: First of all, I think everyone recognizes that there is enough money; we do not need more money in health. The health budget has an adequate amount of money. What we are saying is that funds need to be reallocated from institutional-based care to community-based care.

One of the difficulties is that there are a lot of issues that are not identified in terms of numbers. It's difficult to talk about the numbers of child abuse cases that are prevented or the number of people with mental illness or the number of family violence issues. A lot of those issues can be addressed through preventive programs and it's difficult to see the effect right away, but definitely we are seeing an erosion of services in the community. If you look, there are a number of cutbacks in public health units.

We already have an existing structure in place. There's a commitment on the part of the government, it says, to shift to community-based care, but that structure is being eroded. I think you are starting to see the effects of that, and will continue to, over time. The amount of money in institutional-based care, I would say, has been adequate and needs to be

reallocated. We need to prevent those people from going to surgery.

Ms Day: I think that if you're talking about seeing an impact on health of these cutbacks, the institutional sector is demonstrating an impact on illness. Today, we want to talk about and have you think about health. Health is not determined by the number of hospital beds or the number of surgeries that are done. The determinants of health, as defined by the Premier's Council and a lot of research that has been done, are housing, a lot of social security issues. We're talking about income and education.

The impact this recession has had in those areas is significant, and yes, it doesn't happen like an accident, where the accident happens now and half a second later you see the blood. It is slower. We are talking about reallocation of a very small per cent, 0.25% a year, over to the community sector to start to build on the determinants of health, to bring together the people, who already know how to address those issues, to work on it. We are calling for strategies to support that.

Mr Carr: Have you had direct discussions with the minister on the amount of funding that you outline here, and if so, what has been the reaction of the minister to what you've proposed?

Mr Elson: We met with the deputy minister last year related to disentanglement. I think we have to look at that, because the issue of funding from the ministry, if there aren't matching funds, as I said, is double jeopardy. If there aren't matching funds from the municipality, if the municipal tax base is starting to decline and it doesn't have the 25 cents for the dollar, then it really doesn't matter how much money the province has; it basically can't be flowed. It's the nature of that arrangement.

Mr Carr: I know that's what provinces do. They commit the money and then they say—I'm not saying specifically this government—"See, we allocated. The municipalities wouldn't give their share. It's not our fault, it's theirs." It's this mindless finger-pointing. You'd like to see, then, the responsibility for this be with the province 100%?

Mr Elson: We want to make sure that issue is on the table, for sure.

Mr Carr: But you don't have a recommendation.

Mr Elson: Not at this time. I think there have been a number of recommendations. The recognition of the relative responsibilities as well as the viability of the contribution by municipalities is important. We believe equally that in fact the programs need to be responsive to the communities. There needs to be ownership within those services and that allocation of resources within the municipality. What that necessarily looks like will need to be done, but when we met with the deputy, it was very clear, as I said, this wasn't on the agenda at this time. It's something that for us and our members comes up every single day. Like you say, that mutual finger-pointing is something that—you know, if the energy that was taking place in the finger-pointing was resolved, there would be a release of a tremendous amount of energy that could go into something much more productive.

Getting back to your other question, though, in terms of what this looks like—for example, in many cases, particularly in rural communities, the budgets are such that the capacity

of public health nurses to visit isolated seniors living in rural communities has basically disappeared. There's a move towards a sort of community-wide program, where the onus is for the community to come to the program, as opposed to the expertise to go to those individuals. When those public health nurses, for example, visit those seniors, it's not just foot care or eye care; they're dealing with safety around the home. As I said before, it's the primary intervention to prevent any institutionalization that might come up. They are involved with such a wide variety of programs that they play a tremendous information referral service for people.

The Chair: Mr Carr, time is sort of running out. Would you allow me just two questions?

Mr Carr: For you, anything.

The Chair: Okay. The two questions are: Do you work with the school boards across the province?

Ms Day: Yes, we do. Each health unit has, to varying degrees, liaison with and definitely works on curriculums.

The Chair: Do you work with Niagara south?

Ms Day: Personally, I don't. I'm not in that health unit.

The Chair: I'm going to tell you what the problem is. I've got two younger children and I try to tell them that pop and chips and all the junk food, we don't eat that. "But," he says, "at school I can buy it." I just want to leave that comment with you. You don't have to answer it, because I'm the Chair; I can't interfere in the hearings here. But I just want to give that point—

Ms Day: We hear you.

The Chair: —and say that I think that's where it is too. If they're learning in school it's all right to buy these products, then when they get home, they say, "But Mom and Dad, at school I can get it," because they look up to their teachers. But in Lincoln it's a little bit different; they get into the juices. But there are some school boards I think you'll have to talk to there.

Okay, thanks for appearing before the standing committee here, and have a safe trip home.

ONTARIO COUNCIL OF REGENTS

The Chair: The next group we have is the Ontario Council of Regents. Would you come forward, please? If you don't mind identifying yourselves. Okay, you may begin, and welcome to the committee.

Mr Richard Johnston: I'm Richard Johnston, the chair of the Council of Regents. We're making a joint presentation today. With me is Barry Moore, the president of Fanshawe College and chair of the Council of Presidents. We had hoped to have Doreen Delouzio with us, who is the chair of the council of all the boards of governors of the system, but logistics got in the way and she couldn't come.

Last year we decided, rather than the Council of Regents alone speaking to you, that we wanted to have the management, if you will, of the college system speak to you as one, with our differences of opinion, but to at least let you know that we're trying to work in some kind of cooperation in the system.

We're going to take a slightly different approach today. If I might point a little further past this particular budget line

and into the future a little bit, then Barry is going to talk a little bit about where we are as a system at the moment and then we'll be happy to field questions from you, if you have some at that point.

This is the 25th anniversary of the college system since Bill Davis established it a number of years ago. I think it's maybe important to start off with what's happened since and where we were at then and where we're at now.

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Before the colleges were established, there were nine technical institutes in the province of Ontario, with about 8,000 students going to them for technical training past the secondary level. When the colleges were established in the late 1960s, about 13,000 full-time students registered the first year, or about 30,000 if you bring in all the part-time students who were participating. This year we will have about 130,000-plus full-time students, almost a million people taking part-time courses in the colleges, and a fairly significant number, which we don't have the figures for at moment, but probably in excess of 100,000, in training of one sort or other which is not post-secondary-related. So there's been a massive growth in the numbers of people availing themselves of this particular form of education.

I guess the context I want to put this in is that if you look at the 1950s, a grade 8 education was seen as all the majority of people needed to get by in society. By the end of the 1960s, grade 12 was definitely the requirement—a grade 12 technical or a grade 12 academic. Either was seen to be appropriate.

It's my sense that we have not had an educational reform of any major consequence structurally since the late 1960s. Yet the need in our society today for education has changed dramatically and any of the stats that you've probably seen out of our national government or things that come out of the United States would indicate that most of the jobs in the 1990s will require at least two years of college education equivalent; in other words, 14.5 or 15 years of education rather than the 12 years upon which our whole system is still based at this point. We have not made any structural change in that matter.

If you then look at the fact that we went from a very small percentage, about 5% of the population, participating in this part of post-secondary, and a total of about 18% of the population going to universities or colleges during the early 1960s, to about 35% of the population going to those institutions at the moment, ironically, there are more going to universities than to the level underneath that in terms of the technical expertise and things that we need to move our economy. That is a matter I'd like to come back to. But we have, during that whole period of 20-some years, people who are in the workforce now, with probably another 20 years to go in the workforce, finding they're being displaced in the workforce because of all of the major restructurings that are taking place and without the adequate education to move on.

At the same time, our graduates out of the high school system are being primarily directed through an OAC-driven curriculum, if I can put it that way, into the university sector and not into the colleges. So a huge number of our people, whether they're dropouts of the high school system or graduates, are still not availing themselves of the post-secondary

education that they require in order to be able to participate in a modern economy.

Where we are at the moment, it seems to me, is at a point where we need some new vision of what the organization of education should be in the province of Ontario. The position I would like to put forward to you is that in fact we need a major extension and investment in the college-style level, if I can put it that way. I don't think we need 23 new colleges in the province of Ontario and that kind of massive capital infrastructure change, but we need an emphasis on where people should be getting educated, for our economy, that we don't have at the moment.

We're getting bits and pieces of that vision coming forward, and I think Barry will talk a lot about how the colleges are trying to respond to that at the moment. But I don't think we have a holistic view of it, if I can put it that way, and I think it's time that we did. If you look at the clarity of vision that was there in the 1960s for establishing the colleges and expanding the universities, I think something equivalent is needed now, although the answer is by no means the same.

The argument I would make is that OTAB's development and the Jobs Ontario developments are all parts of a puzzle, but if we try to focus only on job-specific training at this point we will be selling short the needs of the majority of our citizens. That is to say that you can train people for a specific job and in three years that job could be gone, the way technology is moving. If you've not given them generic skills to enable them to move to other kinds of advanced training as they're in their employment and to prepare for change, we're going to have this continual displacement of people, high welfare rolls and a lot of people on unemployment for the next period of time.

The place where at the moment we have applied learning and generic skills put together most effectively, I would argue, is the college system, where all the courses are related to prospective jobs. Right now, even in the depths of this recession, the latest figures I've seen, which are not released yet, show that we're still finding jobs for over 80% of the students who go into our colleges, which is remarkable given the nature of the downturn of the economy at this point.

It's clear as well, if you look at stability of employment, that major stability comes with the level of education you're at. The greater your general level of education, the greater your capacity to remain employed. Again, from our perspective it's time to think about a massive new shift in direction to make sure everybody gets at least a college level of education. Then you can't stop at that, because if you do, I think you're running into a dead end as well. That is to say that one of the flaws, perhaps, of the system when it was established in the 1960s was that there was no direct linkage to the universities out of the colleges, partially because the universities did not want anybody messing around with their degrees, frankly, and being able to offer degrees like they could.

In part that's been useful to our system, and I would argue it's been more effective than the CEGEP system in Quebec because we have much better technical programs than it does. They are a junior college system and everything is oriented to getting people through a classical education into the universities, whereas we are actually producing people who are better equipped to deal with the economy than the CEGEPs are.

However, the need to make the linkages to the universities is crucial. If we now start to see general education moving to not being grade 12 but, say, two years of college, we have to make sure that's not a dead end but that people can then move to other kinds of superior training, and hopefully the work that Walter Pitman's up to at the moment will point some directions for us in terms of how that can be done.

I'd like to come back to some of these comments at the end, if I might, after Barry's had a chance to talk a little bit, but there are linkages that are just crucial. We've got to change the way colleges and high schools work together. We've got to change the way colleges and universities work together or, more importantly, don't work together at this point. We've got to talk a lot more about federal-provincial shared visions and shared resources, because we are being decimated in certain aspects of what we're doing in the colleges by problems with federal funding at this stage.

We need to think more clearly about how income maintenance programs, like those operated through Comsoc, should be directly integrated into training and education, and not just through a Jobs Ontario kind of project but much more intrinsically organized. I'd like to come back to that after Barry's had a chance to tell you about how we're trying to manage at the moment with the financial difficulties we have.

Mr Barry Moore: It is a pleasure to be here. My comments all refer, in a very brief fashion, to the notes, which I think were circulated to you, Ontario Colleges: Well Positioned to Support the Province's Economic Renewal. There are a number of headings there which I think describe the reasons for that.

One does have to do with access. Richard has mentioned the tremendous growth in the system over the past 25 years—that's the same across the country—but if you would look at the first chart that's in your handout indicating the figures, a very recent period, 1988-92, you can see a very substantial increase in enrolment there. This is just in the post-secondary area of our operation, not the training side where there are similar kinds of things happening, but you can see the tremendous increases.

I think one of the things that's important for members to be aware of as well is that colleges don't just deal with individual students, full-time or part-time. We deal with a lot of agencies and a lot of industries, through continuing education, through the skills development offices. I know in my own institution of Fanshawe College the skills development office at any one time is dealing with between 300 and 400 small and medium-sized businesses in our southwestern Ontario region, enabling those companies to develop educational programming for their own employees. We're not just talking about individual students; we're talking about our connections to agencies and industries and so on throughout the whole province.

In terms of access, access will be greatly aided by the prior learning assessment activity which is coming. We can come back to say more about that, if you wish. Distant education programming is being looked at on a much wider basis than it was previously.

On the quality issue, there are a number of ways in which colleges do a good job. One is certainly by the strong connections they have maintained over the years with their local

communities, having programs driven out of real, local community needs. Another part of that is through the fact that most colleges have very strong program review processes in place. As a very quick aside on that, even before I came to Fanshawe College in London, five years ago now, I had heard a number of years before that, out in British Columbia where I worked previously, about the superb program review process that was in place at Fanshawe College, where virtually every program in the institution—and this is matched in many colleges in the province now—is reviewed about every three years, primarily by employers who hire the graduates. So it's quality control that I think really does work.

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The other quality issues: Richard has already mentioned the strong employment record, still going out in the teeth of the recession. Our graduates, about 80% of them, are getting employed in areas directly related to their education and training, and another 6% or 7% are finding work. Many of the others are on to other things, other forms of education. A very small number are still looking for work.

We also, I think, have a pretty good record of high satisfaction with the results of the college work. There's going to be—and we can't refer to it too publicly today because it will be announced tomorrow. The Ontario Institute for Studies in Education is circulating a document tomorrow, reviews of a thousand folks here in the province of Ontario which provides some rave reviews for the college system. We were anxious about what might be found. We are now overjoyed by what is in that report, and there will be more, I think, available on that.

Responsiveness: You can read what's there as well as I can say it. There's a tremendous diversity of activity in our institutions, and that's one of their strengths. I think also that we have been quick to respond to labour initiative needs. You can see the list of things there, labour force adjustment activities and increasing numbers of mature students in our institutions. The figure that's there—this in the second-last bullet under "Responsiveness"—refers in the fall term of 1990, in the post-secondary area, to about 20% of our students being 25 years of age or older. I would suspect that probably has increased dramatically over the past couple of years. We don't have that information yet, but my own faculty indicates that even this year there was once again apparently a dramatic increase in the age of the students, many of them casualties of the recession, and we are indeed the prime institution of choice during the time of recession.

A lot of partnerships, and that's important to this government; I think it should be important to any government these days, for trying to work things out. I think too long, right across the country, we tried to do things in isolation from one another. You can see a list of the kinds of things that colleges have been involved in and are working on. One of the reasons that colleges are a good bet to do that is because we are so connected to our local communities, and if you are tied in there, then the ability to operate in isolation is much more difficult.

The accountability area: We are a crown corporation. Some of my colleagues complain about that a little bit at times, but, for better or for worse, that means we are very closely connected to the requirements of provincial and in-

deed federal governments in having their programs—social and economic and other programs—come into place. You can see some of the ways in which our accountabilities are maintained.

With regard to restructuring, if I could ask you to look at the second chart—fortunately, I guess they hang together fairly well. One of the dilemmas we have right now is that you can see the enrolments are up very, very substantially. If you look at the chart, and particularly the grant per funding unit, which is the bottom line of figures, you can see that the funding unit for our institutions over the past three or four years has gone dramatically down. So it's very possible for us to say, I think quite accurately, that we have already been involved in restructuring for the past three or four years. I think there is a point now, however, where those numbers are starting to collide in a very, very difficult way, and I think that's partly the reason for our visit today.

Mr Kwinter: Mr Chairman, a question. Is that funding unit the student body?

Mr Moore: It's not exactly a student body, because full-time and part-time sometimes get a little bit mixed up, but you can certainly equate that to a student. If we had the accurate information on students, it would show exactly the same picture.

The Chair: Maybe for clarification, I think Mr Kwinter is saying it might take five part-time students to make one full-time. Is that how you're counting? The clarification could also be for the Chair.

Mr Moore: No. The funding unit would relate very directly. You could equate it to full-time students.

The Chair: But you count five part-time equivalent to one? Is that how you're doing it here? In other words, if you had people going part-time and they were taking only one course whereas maybe you're taking five as a full-time student, it would take five of them to give you one.

Mr Moore: I would say 99% of the document here refers to our full-time operation. The 900,000-plus people we operate through the other side of our organization are funded in quite another way.

The Chair: I think Mr Johnston was saying one million part-time students.

Mr Johnston: It's around 900,000 or so.

Mr Moore: I'll conclude, because I know our time is just about up. The point we want to make is that whatever we've done over the past 25 years, I think we've put together an infrastructure that really is poised to do some continuing new and dramatic things. It was just 25 years ago that we began. We have an infrastructure that's deeply rooted in every community in this province, we have a good record of partnerships, and I think we are poised to move in the directions the province wishes by way of rebuilding the economic and social base that's necessary for the future.

Mr Johnston: What we are missing at the moment is the clear direction the government wishes us to go in. We're getting lots of hints of it through a variety of various programs, and, as Barry said, we're trying to adjust to them at a time of fiscal restraint. But it seems to me we need more clarity on: How much is going to be done by high technology?

How much can be done by self-directed learning? How much can we do through prior learning assessment of older people coming into our system? And just what is the overall vision of where the shift will be in terms of our education system, hopefully for the next 25 years, because it's still primarily designed on a 1960s model.

Mr Phillips: I think the thing that will impact you the most is OTAB. I think this is a fundamental shift. I'm interested that you're supportive of it. Many of the things you do right now in my opinion will shift over to OTAB, and it will be an independent agency. I think there are some major risks in it. It is not accountable, in my mind, to the public. It's accountable to the 22 directors and their constituency, which is a limited constituency. It is going to have a fundamental shift. Many of the things you say you do is in their mandate, that's going to be their role now. Under OTAB, as it picks up the responsibility for the partnership with employers, with sectoral training, with all those things, won't that fundamentally shift your role? You will be a supplier to OTAB.

Mr Johnston: Both of us will probably want to say something on this. Barry?

Mr Moore: I think it's very important to note that OTAB is not primarily a delivery mechanism. It's a coordination mechanism.

Mr Phillips: I understand that.

Mr Moore: We are really saying that the college system is the prime delivery mechanism that is available to put the programs out. We do about 70% of the training activity in the province right now, for instance. We see it from an operational perspective. While, as you pointed out, while there are some difficulties with OTAB, when it finally begins to operate, it will be so much better than the absolutely sporadic diversity and confusion that's out there about who does what and when at this point that it will be a blessing.

Mr Phillips: Good. I'm glad to hear you say that.

Mr Johnston: One of the advantages for us through it is that when it has local boards, we're well tied into those local communities, and we're expecting that colleges will still play a major role.

The other thing we recognize is that the colleges can't do everything. When I talk about the new vision, I don't think that means that every training program in the province needs to be dealt with in a college. The generic skills base is something that I think a college can deliver better than any of the others. Sectoral partnerships are things we can do better because we have institutions all around the province to be able to help with sectoral things, but there are many kinds of training that could be done better by private trainers, by boards of education. We need to work that stuff out and rationalize that stuff out better.

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But from our perspective, we're worried a little bit about the potential of being shut out of an OTAB in the way you're portraying. But we just look at what's happening to us with federal dollars at the moment: A college like George Brown or Fanshawe, which does an awful lot of training at the moment, is getting devastated by arbitrary cutbacks, as we would see it, of money from our system, without having any input. At

least with OTAB, we'll have a voice at the table and will be able to try to say: "We can do this part of things. We're happy to have open competition and lose this other matter but there are certain things a college can do that others can't do." So on balance, we prefer that to the status quo.

Mr Moore: We welcome the competition.

Mr Phillips: Very interesting.

Mr Sterling: I have a whole host of questions I'm interested in. We've heard some evidence in front of this committee that Ontario is paying huge amounts of money for its education system and we're not getting a good bang for our bucks. Because you're at the end of the system that has been seen as more of a training function, you probably aren't receiving the same kind of criticism that other ends of the system might be.

I don't know how long your teachers teach; I don't know how well they're paid. I understand they're paid roughly equivalent to secondary school teachers.

Mr Johnston: I wish. That's part of our problem.

Mr Sterling: But they're only teaching for a fairly short period during the year, September to the beginning of May or something like that. We have to get a better bang for our bucks, whatever we're talking about. How are we going to address this within your area? It's nice for everybody to come here and say, "The feds aren't giving us"—you know, the supply side is down, but there aren't any more bucks, I don't think.

Mr Johnston: I think you put your finger on a problem. When we went into collective bargaining last time with the faculty, our big problem was that the gap between high school teachers at max and our professors was going to be \$6,000. It's strike time when that kind of separation happens, because always the comparators have been between those two systems and between ourselves versus the universities, which is another \$20,000 or so above our faculty's level, at this point. So our people were quite nervous about that.

On the other hand, we as management wanted exactly the kind of reconsideration of workload and participation in the classroom etc that you're talking about. As part of our agreement, we have now what's being called an effectiveness committee or quality of education committee, jointly with management and the union, which is going to be looking at ways we can reorganize how we're operating in the classroom and elsewhere to try to make ourselves continually more efficient.

To follow up on what Barry said, we have been making efficiencies by necessity: to have a 30% growth, as we've had, in the number of students in this last period of time, with the small amount of increase, when we've had increases, in terms of the pass-through or grant. We've already been making those efficiencies, but we're at the edge of what we can do now within our present collective bargaining structure, and we're trying to work at new ways of rethinking that.

That committee we're hoping will be up and running effectively in the next month or so, and within the next year or two will tie in with our restructuring committee, which is looking at many large issues of technological change, in terms of delivery, compressing the school year for our mature students, a number of things of that sort, and see how we can

meld the labour reality with the desires for reorganization. We have some hope we'll be able to manage that.

Mr Sterling: I think the taxpaying public is going to demand even more from all parts of the education system.

Can I ask another question which is very important to me? The college system, when it was originally set up, was an alternative route for some people in our society, to go to community college to obtain more practical skills, and in some cases for people who had less academic qualification to obtain another level of education.

It seems that those very people whom the system was designed for are getting squeezed out, because we now have university graduates who are coming back into the college system and squeezing out the people the system was meant for originally. It may lead to the fact that you are getting 80% of those people who were, first of all, university graduates, then trained, then are out, so I'm not sure the 80% is a reflection of people the system was originally set out for.

Can I add another part to it? Is there some logic to ending education for some of our people within our secondary schools at, say, a grade 10 level and then transferring them into the colleges, because you are then talking about the transfer of resources from one system to the other? I think we had the Ontario Institute for Studies in Education come in here two or three years ago and say: "You know, in a lot of cases, there isn't any justification for keeping kids who are 16, 17 and 18 in high school. We really don't know why we're doing that."

Mr Moore: On the first question with regard to whether the college system is still serving those for whom it was originally intended and, for instance, not primarily those who may have been recent university graduates or something who are bouncing back in, in my own situation in London, where there are certainly some students who have come back from part of a university or a total university pattern, I think the publicity that has surrounded a lot of that is much larger than the actual numbers.

When you start to look at the actual numbers in classes, particularly in the health area—a lot of our health programs seem to draw a large number of those people—you will still find, I think in most colleges anyway, a preponderance of recent high school persons or persons without university education in them. There is sometimes a lot of publicity when students can't get into particular programs. Of course, there are thousands of those at this point, but I think the driving out of those for whom the college system was intended is not a huge problem. It gets a lot of press.

Mr Johnston: It could have been a problem, however, if we had not continued to admit as many people as we have, because the squeeze might have happened. The debate continually takes place in the colleges, because the range of things they do is from Ontario basic skills level, the upgrading of individuals who don't have a grade 10 kind of a level, to doing very high-tech stuff which is not even done in universities in some cases. There's always that debate: Can we do all of this? Up to this point, the colleges have said they still want to be the welcoming kinds of institutions they were established to be in the 1960s.

Mr Moore: On the grade 10 issue, on the question with regard to whether there should be transfers to colleges, a number of jurisdictions have thought of that and contemplated it—British Columbia did some years ago—and there just seemed to be so many problems associated with it.

My own personal answer to this, and some of my school colleagues won't appreciate this too much, is that in some ways the dropout rate in high schools may not be enough and it probably would not hurt many people to drop out, find their way, dramatically decrease enrolment in the school system and return back to adult education and retraining when they are truly motivated, and moving on to that much more quickly. That would shake loose millions of dollars. But as I say, that's not too popular with my school colleagues.

Mr Sterling: Just in response, I guess my question was put because I believe you could prevent a lot of the dropout rate if you took a certain segment after grade 10 and said, "We're now going to train you specifically on a path which you see as useful to your ends."

Mr Johnston: I would not disagree. The only thing I would say at the moment is that there are some steps we could take even before that in terms of making the curriculum at the high school level an awful lot less biased towards trying to move people into universities and more into getting them prepared for the workplace and for college.

Ms Swarbrick: One clarifying question and then one of more substance: Am I understanding correctly from the document you presented that the federal funding is direct and that therefore it's not included in this chart?

Mr Moore: That's correct.

Ms Swarbrick: I assume it would make your picture look even worse if you had a chart of it.

Mr Moore: Yes.

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Ms Swarbrick: The question of greater substance is that I was at the retirement dinner for Bev McCauley—I believe you were too, Barry—and I was talking to a number of the community college presidents there, some of whom were advocating having greater freedom to be able to raise money for the college system independently. I was wondering if you would comment on that, and if the two of you disagree, whether you would each comment on that.

Mr Moore: I don't even know whether we disagree. I know a number of colleges are involved in capital campaigning or other campaigning. My own institution is among those and is doing quite well at it, thank you, for first ventures. In most cases, this is new for colleges because we were prohibited from doing it by the government here in Ontario until just before my time, about five or six years ago. Those ventures, I think, are quite positive, again not only from the perspective of the funds which are raised—they don't relate to operating colleges; people at this point anyway in Ontario are not willing to consider giving money for operating the institutions—not only the money, but it is the important community partnerships that those activities bring.

I think all the colleges that have been involved in fund-raising have found that their connections to large- and medium-sized and other corporations that give them things, dollars or

equipment, are often done on the basis of some kind of activity that then links them together with the institution much more strongly. From that perspective, it's much more than the money, and I strongly support that kind of activity. There's a lot of it going on.

Ms Swarbrick: I understood that some were throwing around the pros and cons of a greater freeing up than what exists now in terms of raising money, maybe for operating money, some of the cons being that I gather there are problems in the United States where that is wide open and there are some problems with it. I wonder if you can comment on that.

Mr Johnston: The real difficulty is structural, in my view. It's not like a university, which has an independent charter and has a great deal of autonomy. Colleges are crown corporations, extensions of the Ministry of Colleges and Universities, and therefore to try to attract money for operating purposes is a very difficult thing to do because people presume the government should be doing it. If you started to get successful doing it, then I'm sure the government would also start to reduce its funds. If you look at some of the colleges in the United States and their economic problems, it's because of that. They've gained some on the private side and then they've lost enormously in terms of the public side involvement, so I think there's a lot to be lost.

I look at some of the projects that have come out of our colleges for capital stuff, and there's wonderful cooperation, so the government gets asked for, say, a quarter of the dollars required because of all the local input. It seems, in terms of startup of the economy and things, funding more of those capital projects, which have a lot of local community involvement, would be a very wise idea.

The Chair: The time has expired. We've actually run the clock a little bit over. I'd like to thank you for coming before this committee.

Mr Johnston: It's a pleasure. I've always liked being on this side of it.

ONTARIO MEDICAL ASSOCIATION

The Chair: The next group we're going to hear from is the Ontario Medical Association. I'd like to welcome you to the standing committee on finance and economic affairs on our pre-budget consultations. We ran over a little bit. We're just getting extra copies of your brief for members of the committee, so I wasn't letting them have extra time, but to keep the committee going.

If you wouldn't mind identifying yourselves for the purposes of Hansard and the committee here, we have until 10 after 12. Mr Phillips, we'll be going 10 minutes late for lunch again today. Sorry, Gerry. You may begin, and leave some time at the end for questions from the committee.

Dr Michael Wyman: I'm Dr Michael Wyman. I'm a family physician in North York and I'm the treasurer of the Ontario Medical Association. I have with me Mr Darrel Weinkauff who is the director of economics of the Ontario Medical Association. We'll try to keep our brief brief, so that perhaps you might be able to hit lunch closer to time.

On behalf of my colleagues in the medical profession, I'd like to thank you for the opportunity to come this morning

and address the committee. Based on recent comments, the Treasurer of Ontario is cautiously optimistic about the economic prospects for 1993 and 1994. Economic growth is expected to be moderate, but it's also expected to exceed the growth in other G-7 countries.

As the Treasurer has pointed out, despite the severity of the recession in 1991, Ontario's gross domestic product per capita was greater than for Canada as a whole and was the largest of all G-7 countries but the United States. While the recession has clearly had a significant impact on the economy, it's important to keep it in perspective. As well, we should also keep expenditures on medical services in perspective.

The latest figures available to the OMA place the budget of the Ministry of Health at approximately \$17 billion for 1992-93, or one third of the total operating expenditures of the Ontario government. Expenditures on physician and medical services are less than a quarter of that amount. In 1992-93, the government of Ontario will spend roughly \$413 per person for medical care. In comparison, total health care expenditures from all sources, both public and private, will likely reach more than \$2,100 per person.

Extrapolating on historical trends, each person in the province sees a physician, on average, 11 times per year and receives 2.5 medical services per encounter. This means the cost to government is \$37.60 per visit or \$15 per service. Physicians do not believe that such fees are excessive, especially if one considers that, on average, 42% of a doctor's income goes to cover office overhead.

We do with the Treasurer's recent statement that the increased need for social programs, including health care, presents the government with a fiscal challenge. However, physicians fear that to help meet its budgetary objectives government intends to lessen the fee or the price it pays for medical services. We feel strongly that this is not a viable solution to controlling health care costs and would in fact be detrimental to the significant progress we have achieved in this area.

One objective of the framework agreement reached in 1991 between the profession and the government is "to ensure fair and equitable compensation for physicians." We urge the government of Ontario to remain faithful to the spirit of this agreed-upon objective. However, we would like to stress that doing so will in no way prevent the government from fulfilling its fiscal responsibility.

The profession is acutely aware of government's need to control expenditures and to ensure that fiscal resources are used effectively and in a manner conducive to the wellbeing of the public. Certainly, moderating the growth of publicly insured services will reduce costs, but any success in this area can be a double-edged sword. At some point—many of us on the front line would argue that this point has been reached—the decline in services may severely threaten the quality of care we provide.

We believe that fiscal responsibility and quality health care are not to be mutually exclusive. It can be achieved by promoting the efficient delivery of medical services. In this sense, we are partners. While the framework agreement requires both parties to ensure fair and equitable compensation for physicians, it also commits the medical profession and the government of Ontario to providing more effective management of

health care and physician services and to enhancing the quality of care.

The commitment of the profession to these tasks is substantial. We do not take the opportunity to be an active partner in the management of the system lightly. Through its participation in the joint management committee, JMC, the profession has made an enormous investment in improving the delivery of medical services in Ontario.

The JMC has established a sound infrastructure and has begun to address major challenges in earnest. The Institute for Clinical Evaluative Sciences, ICES, which is the JMC's research arm, is now fully functional and will rely heavily on the critical experience and expertise of Ontario's physicians. It is clear that improvements we achieve in the management of the system will be due in large part to the insight of physicians as front-line health care providers.

Let me assure you that the profession will not shrink from making the difficult decisions ahead and that it is determined to provide leadership in the areas of physician resource planning, utilization review and quality assurance. Through the JMC we are working closely with government to tackle such difficult issues as the development of clinical guidelines, training and licensure of international medical graduates and physician distribution. The tasks before us are formidable, but they would be even greater without the cooperation of government and the profession, the expertise of ICES and other researchers and the support of the public.

Already we have seen a significant decline in the growth of medical services. Following an average annual increase of 5.5% over the last decade, and averaging about 7.2% over the previous three years, medical services grew by only 3.2% in 1991-92, the first year under the framework agreement. For 1992-93, it is currently running at only 1.5%. This represents a reduction in expenditure growth of nearly \$250 million over the last two years.

Furthermore, the profession has agreed to work with government to ensure that medical services used to meet the requirements of third parties are not billed to the Ontario health insurance plan. Although we do not have firm estimates, those figures that we do have, combined with what we can learn from other jurisdictions, suggest to us that this could represent a savings of \$90 million to \$120 million in each and every year.

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The medical profession has also shown considerable restraint in its negotiations with government. At a time when the expenses of operating a medical practice were rising by 6% per year, the profession agreed to a modest 1% increase in the OHIP schedule of benefits. In addition to these costs, physicians must now also absorb the employer health tax, which will reduce net fees and incomes by a further 1%.

Many people from many walks of life have suffered the effects of this recession, and physicians are no exception, but we will continue to meet our commitments under the framework agreement and work to ensure access to quality medical care in a cost-effective fashion. We recognize the need of government to show fiscal restraint, and at the same time we are acutely aware of the needs of our patients. Clearly, a balance must be struck, but we urge government, as it sets the budget, to remain sensitive to the health care needs of our

society. We must be vigilant that in striving to contain costs we do not jeopardize the quality of the system that we have all worked so hard to establish. Thank you, Mr Chairman. I'd be more than happy to answer any questions.

The Chair: Okay, from the Conservative Party, Mr Carr.

Mr Carr: Yes, I'll go first. Thank you very much for your presentation. I had a question relating to the cap on doctors' salaries, the \$400,000. I have spoken to many doctors. Way back when I was 18, I tore up cartilage when I was playing hockey, and a doctor by the name of Dr Jackson, who went on to become chief of surgery and so on, did the operation. To this day, it's been terrific. I went through six years of playing pro and have had no problems up to and including last weekend.

They tell me he has now left to go to Dallas, where he'll make a substantial amount of money doing teaching as well. The people we will lose with this cap won't be the regular GPs, because quite frankly they say the States won't take us; it's a tough time. But the ones we will lose are the top in their professions. This incidence was Dr Jackson. Do you see a lot of our top specialists leaving because of the cap that was put on by this government?

Dr Wyman: That's a very difficult question to answer because while there are a large number of people who do migrate to the States, it is difficult to obtain the numbers that have gone in the last two years. We've been trying to get those figures, and mostly they are anecdotal.

Mr Carr: They don't report in and say, "I am leaving."

Dr Wyman: They often don't; they often will maintain their Ontario licence even though they move away. But the preliminary estimates are that there has not been a dramatic increase in the number of people that are going. There's no question that we in Ontario, through our educational establishment, have created a large number of world-class physicians. There is also no question that the American system provides these people with significantly more money for research facilities, for hospital and operating room facilities and for personal income than we can offer in Ontario.

Has the \$400,000 cap significantly changed that? I think it has affected some of the people going, and I think it will probably continue to do that. But I think some of the other efforts that have gone through in the budgetary concerns, the budgetary cutbacks, related more to hospitals than to physicians' incomes, are going to have significantly greater impact on people leaving.

Mr Carr: I hope this is isolated, but I've also heard of some specialists who say: "That's fine. We've got a cap on \$400,000. I'll work the six months, nine months, and then"—they might be a specialist in hand surgery—"I'll be down in Florida, and I could work seven days a week, 24 hours a day because of my specialty, and I'm just not going to do it." I hope that's isolated, because I don't think doctors get into it—in spite of what some in the government think—for the money; they do it because they care about people.

But I want to touch on another issue. I was supposed to go to a meeting today at my hospital in the Burlington area, Joseph Brant, which has been ravaged by cutbacks, has laid off a tremendous number of nurses and services have been cut back dramatically. When we went to the finance meeting—and

I know yesterday some of the government members said they keep everybody involved. They have; they've had nurses there, they've had workers, they've had the chief of surgery, they've had everybody, including MPPs. We can't even fit in the boardroom.

But one of the problems they've got is that they do not keep records of postponements of operations. So the hospital can't say, "I'm sorry, this week, because of cutbacks, 13 people have had to wait for elective surgery." As the medical profession, what is your assessment? Can you give us some numbers on what the health care cutbacks are doing in terms of, let's say, surgery being postponed? How many people are being pushed back that we don't know about? You've got a Treasurer saying, "See, nothing has happened in the health care system," and no one knows about the number of operations being postponed. Could you give us an idea of what's happening in that area?

Mr Darrel Weinkauff: This information is anecdotal. One of the problems we have with our—

Mr Carr: Just quickly, if I could—and sorry to interrupt—why is it anecdotal? If you could just explain that too.

Mr Weinkauff: I was about to explain that.

Mr Carr: Okay, sorry.

Mr Weinkauff: Actually, the difficulty we have with our information system is that we don't get final information until, very often, a year after the fact. Most of the changes you're talking about, these squeezes, restrictions in hospitals or access to hospital services, have occurred in the last year. We expect that, shortly, we'll be able to give you a better estimate, but at the moment all we know is that it is happening.

Actually, I'm wondering if I can comment just briefly on your question on thresholds. Again, it is anecdotal. We will get better information, but I think it's clear that it does in fact induce physicians to reduce the level of care they provide to the community. Many of them incur this penalty and I believe the government expects it will recover about \$37 million from physicians for providing services above the \$400,000 range. But once you get above that, most physicians are not really willing to pay 33-cent dollars for those services. In many instances it costs them money to provide that care.

So, again, I don't have figures, but I think you can be confident that it does have that effect.

Mr Carr: One last question, too, in regard to your relationship with the government. This is a difficult one and I'll play devil's advocate. The problem you've got is that you, of course, negotiate with the government and many doctors have been critical of your association because they said it hasn't taken on the government. It's a delicate balance. I firmly believe that in dealing with this government you have to do like the police did: confront it and stand up to it.

Many doctors are coming to me, saying—and forgive me for saying this—"They are not going hard at the government like they should on our behalf." Knowing you have to negotiate with them is a lot different, because you can say that when you're not sitting at the table with them in the open here and knowing it's going to get back to the government. How would you categorize your relationship with the government today? How's that for an easy question for you?

Dr Wyman: I think in the last couple of years there has been a shift in the relationship between organized medicine and the government, and I think it's been a positive one. Going back over the five, six, seven years previously, we've had a very antagonistic relationship.

Mr Carr: When you were throwing the rolls in the legislative dining room.

Dr Wyman: Yes, it's not been a pleasant time. I think, as a result, the provision of care has suffered. I think there is a need for a cooperative approach between medicine and the government towards management of the system. At the same time, that does not mean we have to roll over and play dead. If there are specific issues we are unhappy about, I think it is absolutely appropriate for us to be stating that loudly and clearly. There are some current issues that in fact the profession will be stating loudly and clearly very shortly in terms of government follow-through on some of the things it has committed to do that it hasn't. That will be coming out within the next couple of weeks.

I don't think the fact that we have a cooperative management approach towards the system in any way means we are either in bed with the government or that we can't be critical of things that deserve criticism.

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Ms Harrington: I'm glad to hear you have a better relationship. I have two questions. You mention in the report here that one objective of the framework agreement of 1991 is "to ensure fair and equitable compensation for physicians," and "doing so will in no way prevent the government from fulfilling its fiscal responsibility." I would ask you to be a little more specific here, because what we're talking about is that people are not willing to pay any more taxes. Where do we cut back in the health care system?

My second question: You talked about the joint management committee and addressing major challenges in earnest together, which is great. That's the way it should be. You have an evaluation committee which is actually looking at the management of the system. Improvements, you say, "will be due in large part to the insight of physicians as front-line health care providers." My question to you is, how would you see the place of, say, nurse practitioners as part of those front-line health care providers?

Dr Wyman: In answer to your first question, the framework agreement is a six-year agreement between the government and the profession, and has a series of objectives. One of the main objectives of the agreement, of course, was to provide fair and equitable compensation for physicians. "Fair" and "equitable" are terms that are defined under the Canada Health Act, so it's not a matter of what one person deems to be fair; it requires sort of a national as well as provincial perspective and in comparison to other sectors of society.

We have an ongoing set of negotiations with government and are currently in the process of negotiations with government to determine a fair and reasonable price for services. What has often happened in the past as we've gone through that is that there has been confusion between price and income. One of the ways we've started to deal with the income

side of things is in looking at the utilization formula and the way in which the system is being used.

As data is becoming available, the joint management committee is beginning to review and develop a better understanding of how in fact the system is being utilized. One of the direct outflows of that is the component of the recently signed agreement between the government and the profession with regard to third-party services, a large number of which had previously been billed to the Ontario health insurance program, were never intended to be and should not have been. Through a conjoint effort between the government and the profession, we are in the process of letting the population of Ontario know that these things are not a public purse responsibility.

It's by reviewing that type of utilization process, it's by looking at the way in which services are being provided, that the total budget, the globe, can be maintained at a reasonable level while not negatively impacting upon what is a fair and reasonable price for the services being provided.

Ms Harrington: So you're saying that by working together you can look at other things around the direct health care provision as to how to do it—even from what we've done so far, cut back further. There is something there we can cut back.

The Chair: I'm going to get my hammer out, Margaret. You had two questions. I've got to go on to Mr Phillips.

Mr Weinkauff: Perhaps I could make one comment on that, though.

The Chair: A short reply.

Mr Weinkauff: Dr Wyman said we have to differentiate between considerations on price, fees paid for medical services, and budget. That's what you alluded to. How do you not compromise quality of care, given the fiscal restraint that the government hopes to impose? That is, of course, the dilemma that faces us. Efficiency, the JMC, improving efficiencies within the system, will take us so far, but you're right. If we are as efficient as we can be and the government wishes not to spend any more money, it will have to face the decision about cutting back. It is as simple as that.

Ms Harrington: You didn't actually answer my question about the place for nurses.

The Chair: I'm sorry, but I've got to move on, Margaret. You put one question forward at a time so you can get that one answered, because sometimes when you put three or four—

Mr Phillips, after being on committee for three years now—two years?—knows the rules. Go ahead, Mr Phillips.

Mr Phillips: I've been waiting for two years.

What was that again? I have to ask it all in one question?

The Chair: One question at a time, not put five questions in one question.

Mr Phillips: How much time do we have?

The Chair: You've got five minutes, Mr Phillips.

Mr Phillips: Just as an aside, that's an interesting observation. I think we have to keep in mind, when we think that we are cutting back on health care spending, that there's \$120 million that would normally have shown up as government expenditures that now is being taken not in taxes but billed

directly to employers. So as we think of how we're managing the system and what we're spending on health care year to year, I think it's helpful for the committee to have those numbers in our minds, because the government is quite proud of its record on health spending, part of it real, part of it illusory, because it's simply—

Mr Sterling: Transferring.

Mr Phillips: —transferring it, privatizing it, and extra billing on it.

I really appreciate your comments on the framework agreement and how well it's working, because I think it was a breakthrough agreement. I happen to think the OMA did a very good job on that negotiation. I think it's a very good agreement for the doctors. I know not all of your doctors share that view, but I think over time they will find that it was a very good agreement for the profession.

The thing that I think is on our minds is just what we should be thinking about for budgeting purposes for health care in the upcoming year. I can't remember exactly the framework agreement, but I guess you know it pretty well; there are several components in it. What sort of year-over-year increase should we be expecting in budgeting for that provision, for that framework agreement? I see you're thinking that utilization may go up 1.5%, is that right?

Dr Wyman: It's currently running at about 1.5%.

Mr Phillips: Fees may go up 1%. Is there anything else we should be thinking of to put in that budget?

Dr Wyman: There is a normal growth curve in the population, there is an aging curve, there are demographic shifts within the community we all serve that have to be included. When we put the agreement together, the anticipation was based on historical principles that the system should expand by 3.6% on an annual basis in order to maintain a status quo, and that is not including any price increase.

Mr Phillips: And is that what we should be expecting next year, is it, a 4.5% increase?

Dr Wyman: I think in fact there has been, at least from the medical perspective, a decrease below that level. I think that's because there's been a decrease in the number of services being provided.

Mr Phillips: I see. I'm not sure if you have that number today, but it may be useful for the committee to have some idea of the total amount you think may be required in that, because that's a collective agreement, I guess, that will be signed shortly?

Dr Wyman: There are negotiations going on currently with regard to price. That negotiation table has opened and we're trying to come up with some answer on that. Obviously we would hope the amount of the price increase would not be predetermined by the budget before those negotiations are finished. It's always been a major concern to us that we get constricted before the fact rather than on a fair and reasonable basis.

But the use of the system itself I think you have to assume should, as an historical process, increase by 3.5% to 3.6%. Hopefully, through the continued efforts of the JMC and the utilization process we've been going through, we may be able

to moderate that somewhat, but I wouldn't want you to think in numbers much less than that.

Mr Weinkauff: Except that I could add, and it was pointed out in Dr Wyman's statement, utilization for 1992-93, at least those figures that we do have for the first seven months, suggest a growth in the system, at least the medical sector, of about 1.5%, and that is exclusive of any price adjustment. As you know, we signed an agreement that adjusted benefits by 1% effective October 1, so that will serve to affect expenditures by an additional 0.5% that year. For next year, yes, we do not negotiate the budget; we negotiate the price, and what we would urge is that there is separation—

Mr Phillips: But the 3.6% is built in, isn't it?

Mr Weinkauff: No, the 3.6% you're referring to is in the utilization formula. It says that to the extent that utilization or growth in medical services exceeds roughly 3.6%, the profession and the government of Ontario will share equally, and the profession's share is taken back in the form of a reduction in payments.

Mr Phillips: But if you were just speculating, because the budget has to be prepared shortly, what increase should we be thinking of putting in for the physicians' portion of the budget in gross terms?

Mr Weinkauff: For 1993-94?

Mr Phillips: Yes.

Mr Weinkauff: You're asking us to do the impossible, really. We would have to predict the—

Mr Phillips: A settlement? But exclusive of the fees.

Dr Wyman: Exclusive of price. You would have to build in, based on historical trends, an increase of between 2.5% and 4% to the system just for normal demographic changes.

Keep in mind that the 1.5% we've gone through so far has not included any epidemics; we haven't had a real flu problem for the last couple of years. That hasn't been included, so if we come up with a March flu, that utilization number will go way up.

Mr Phillips: We've got to pray for good weather. That's very helpful, thank you.

The Chair: I'd like to thank you, gentlemen, for coming before this committee today.

Dr Wyman: Thank you. It's always a pleasure.

The Chair: I'd like to say to the committee that we're going to be adjourning until February 22. Sorry. I'm correct about pre-budget consultation, but we'll be going to Bill 164 on January 25; some of the members will be changing. What we need is a subcommittee meeting to look at presenters for the week of February 22. The closing date is January 15, I believe. Mr Phillips, are you on the subcommittee?

Mr Phillips: Yes, I will be.

The Chair: I didn't know whether Elinor would be there. And Mr Carr?

Mr Carr: Yes.

The Chair: We're trying to fix 1:30 on January 19, if it's convenient to the subcommittee members. I'm having the clerk send out a list of all the presenters so you can go through the list ahead of time and see which ones your caucus would like to see come forward, because you might not agree; you might have different areas you want to bring forward.

Mr Carr: The only thing I was going to suggest, Mr Chair, with committees being what they are—speaking to some of our caucus members, they sometimes don't know where they're going to be and who's not going to be on that day, so we're a little bit all over. If we got them—

The Chair: Submit a list?

Mr Carr: The list: Do you actually need to be here? If I say, "Here it is"—

The Chair: That would be a lot easier. We'll have choices. I don't know how many will be coming in, but we'll have to say, "These are your priorities; this many."

Mr Carr: And if worse comes to worst, divide it by three to get the total.

Mr Sterling: Just as a matter of interest, if you say the cutoff day is the 15th, that's tomorrow. Presumably, you haven't.

Clerk of the Committee (Ms Tonia Grannum): It's February 15.

The Chair: February 15?

Clerk of the Committee: I think so. The deadline's in February.

The Chair: Forget everything I said. Sorry. I've got that other bill in my head, 164.

Mr Carr: How many do we have now, do you know?

Clerk of the Committee: We have about 30 people.

Mr Carr: For four days, right?

The Chair: It's two weeks, because each caucus is going to be writing its own report in the end.

Mr Carr: We've got two more weeks of finance hearings?

The Chair: Correct. We'll get those lists out as soon as we can on the closing date, and we'll call a subcommittee meeting at that—

Mr Phillips: The 19th?

The Chair: No. The other one is February 15, not January 15, for the pre-budget consultations.

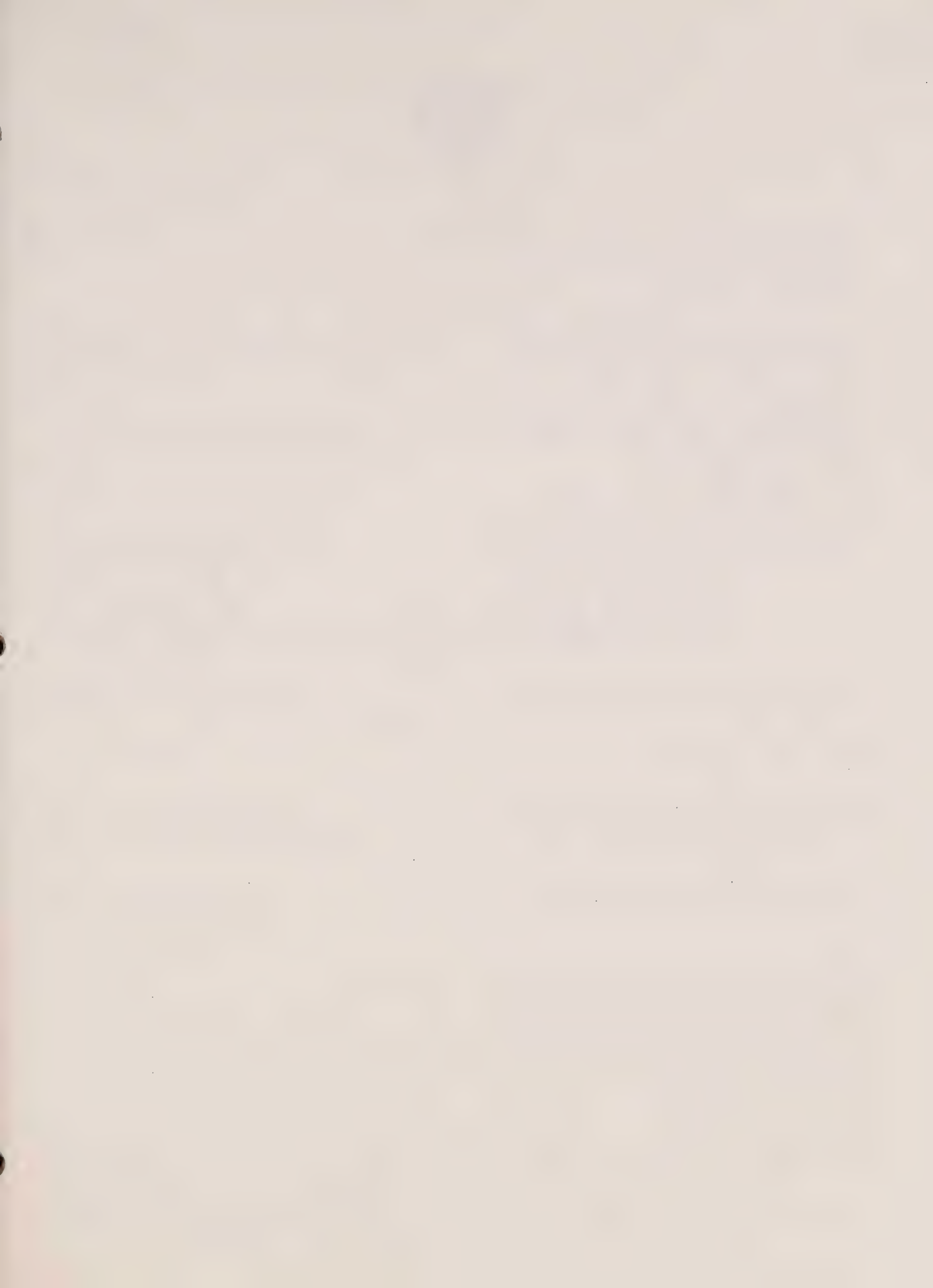
Mr Phillips: That's good, because tomorrow is January 15.

The Chair: That's the Bill 164 deadline; that bill's coming to this committee. I don't want to confuse you.

Mr Phillips: Why did you, then?

The Chair: This committee is adjourned.

The committee adjourned at 1214.



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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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- ***Vice-Chair / Vice-Président:** Sutherland, Kimble (Oxford ND)
- Caplan, Elinor (Oriole L)
- *Carr, Gary (Oakville South/-Sud PC)
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- *Kwinter, Monte (Wilson Heights L)
- *Phillips, Gerry (Scarborough-Agincourt L)
- *Sterling, Norman W. (Carleton PC)
- *Ward, Brad (Brantford ND)
- Ward, Margery (Don Mills ND)
- Wiseman, Jim (Durham West/-Ouest ND)

*In attendance / présents

Substitutions present / Membres remplaçants présents:

Conway, Sean G. (Renfrew North/-Nord L) for Mrs Caplan
Coppen, Shirley, (Niagara South/-Sud ND) for Mr Sutherland
Harrington, Margaret H. (Niagara Falls ND) for Mr Wiseman
Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Mr Christopherson
Swarbrick, Anne (Scarborough West/-Ouest ND) for Ms Ward

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Richmond, Jerry, research officer, Legislative Research Service

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ISSN 1180-4386

Legislative Assembly of Ontario

Second Intersession, 35th Parliament

Official Report of Debates (Hansard)

Tuesday 26 January 1993

Standing committee on finance and economic affairs

Insurance Statute Law
Amendment Act, 1993

Chair: Ron Hansen
Clerk: Tonia Grannum

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Journal des débats (Hansard)

Mardi 26 janvier 1993

Comité permanent des finances et des affaires économiques

Loi de 1993 modifiant les lois
concernant les assurances

Président : Ron Hansen
Greffière : Tonia Grannum

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Tuesday 26 January 1993

The committee met at 1004 in committee room 1.

INSURANCE STATUTE LAW AMENDMENT ACT, 1993 LOI DE 1993 MODIFIANT LES LOIS CONCERNANT LES ASSURANCES

Consideration of Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters / Loi modifiant la Loi sur les assurances et certaines autres lois en ce qui concerne l'assurance-automobile et d'autres questions d'assurance.

The Chair (Mr Ron Hansen): I'd like to call this committee to order, the standing committee on finance and economic affairs. We're considering Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters.

I'd like to welcome everyone here this morning, and I'd like to start off by introducing the members, since we have quite a few new faces on this committee which I haven't seen before. We've got some older ones here too—not agewise, just members. Mr Ward, would you mind starting off at the end, and introduce yourself and your position in the government here.

Mr Brad Ward (Brantford): Brad Ward, MPP for Brantford and parliamentary assistant to the Minister of Industry, Trade and Technology.

Mr Stephen Owens (Scarborough Centre): Steve Owens, MPP for Scarborough Centre, parliamentary assistant to the Minister of Financial Institutions.

Ms Christel Haeck (St Catharines-Brock): Christel Haeck, a mere backbencher representing the riding of St Catharines-Brock.

Mr George Dadamo (Windsor-Sandwich): Good morning, I'm George Dadamo. I'm the MPP for Windsor-Sandwich and as well the parliamentary assistant for the Minister of Culture and Communications.

The Chair: And Mr Kwinter.

Mr Monte Kwinter (Wilson Heights): I'm Monte Kwinter, MPP for Wilson Heights.

Mr Remo Mancini (Essex South): Remo Mancini, MPP for Essex South.

Mr Gerry Phillips (Scarborough-Agincourt): Gerry Phillips, Scarborough-Agincourt.

Mr David Tilson (Dufferin-Peel): David Tilson, Dufferin-Peel.

The Chair: Mr Kormos? Are you sitting there?

Mr Peter Kormos (Welland-Thorold): Peter Kormos. I'm the MPP for Welland-Thorold and the government's critic for auto insurance.

The Chair: I'm Ron Hansen, the Chairman of this committee, and I represent Lincoln. I'm going to call it the head table up here. I don't know if that's the head table or this is

the head table. Would you mind identifying yourself and your position and how you will be involved in these hearings, from my far right. Go ahead.

Ms Pat Girouard: Pat Girouard, Hansard branch.

Mr Andrew McNaught: Andrew McNaught, legislative research.

Ms Rebecca Chan: Rebecca Chan, committees branch.

Clerk Pro Tem (Mr Franco Carrozza): I'm Franco Carrozza, the clerk pro tem of the committee for this hearing.

The Chair: Before we start, we had a delay in the committee yesterday as one of our committee members passed away, Ms Margery Ward. This committee will miss her presence, and I guess the whole Legislature will also. That's why we had a delay in the hearings, and what we were going to do on Monday has been moved to today. Wednesday will remain the same. Thursday will remain the same. The travelling will remain the same next week; nothing changes there. Tuesday, what actually was to be scheduled today, the subcommittee will be meeting. We'll find a time to meet maybe just before lunch or just right after the hearings to discuss how we're scheduling. There have been some additions of people who want to go before the committee and there have been cancellations, so there's going to have to be some slotting and some switching around. If you can keep that in mind, we can address those problems later on.

I believe Mr Mancini has a point of order. I think he had his hand up there.

Mr Mancini: Yes, thank you, Mr Chairman. I have a point of order. I want the record to show that on behalf of the Liberal caucus, I had asked yourself and the clerk to have this committee's proceedings take place in committee room 151, known as the Amethyst Room, which is on closed-circuit television and shown on cable throughout Ontario. It is my belief and the belief of the Liberal caucus that since this bill affects every driver in the province of Ontario and since information made available to me leads me to conclude that insurance rates are going to go up, forcing greater costs on drivers, it would have been absolutely appropriate for this committee to sit in room 151 so the government could explain its policies and have an interface with the general public.

I can't tell you how strongly I feel about that and how disappointed I am that we are not in committee room 151. While it is all right for people from the industry, people from legal organizations, people from industry associations, other organized groups and a few individuals—they will be able to come and join us in this room and hear the participants from all sides speak—the millions of drivers in Ontario who do not have the opportunity to come and join us in this particular committee room will not have the opportunity to have seen what has transpired, to have listened and to have made up their own minds. I want the record to clearly show how disappointed I am, on behalf of our caucus, and I don't know why

it was not possible for us to be in committee room 151. It was only for four days, Mr Chair.

The Chair: Yes, I take your point. I know you've raised it with the subcommittee; you've raised it with me. As a committee Chair, I was approached by the clerk of that particular committee, the standing committee on resources development, that's looking after OTAB and it requested at that time if it was possible to get 151. I was surprised I was in 151 because this committee normally meets in committee room 1. At that time, I gave it away. It just seems to be that we haven't come up with any negotiations with my friend Mr Peter Kormos on an agreement. I see him sitting next to Mr Harnick, and he had his—

Interjection.

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The Chair: Okay, I'm sorry. I haven't got my glasses on. I can't read that far, so it didn't make any difference whether you turned it around. I see Mr Kormos had his hand up there. Maybe there is some agreement now with the Chair of resources committee that we get 151 for Thursday, anyhow.

Mr Kormos: As you know, Chair, in the interest of compromise, I, being the Chair of the committee meeting in the Amethyst Room, offered you the Amethyst Room for both Thursday morning and Tuesday morning. You declined that offer.

The Chair: I was—

Mr Kormos: One moment, Mr Chair, please. I thought it was a fair compromise, because I recognized the importance. I know that people who were making presentations, for instance, who were scheduled Tuesday morning, would have been of interest the whole province. After you have your subcommittee meeting and revise your schedule, I suggest to you that perhaps we can reach a similar compromise.

I was surprised that you would not accept my offer of having the Amethyst Room for those two mornings. You insisted on having it for only one morning. It struck me as peculiar.

The Chair: It was that I wanted it for all day Thursday, which would run till 10 o'clock at night. I'm going to just recognize Mr Owens over here.

Mr Owens: I'm pleased that these proceedings have started off on such an amicable note. In the interest of people who are waiting, perhaps we can move to the technical briefing and discuss the issue in subcommittee after the hearings.

The Chair: Okay. I'm going to recognize Mr Tilson for some short remarks until we go into subcommittee.

Mr Tilson: I was just going to say the same thing as Mr Owens. Surely all of these matters can be dealt with later. We're here now, so—

The Chair: I believe some wanted it on the record.

Mr Tilson: I agree with Mr Mancini that this topic should be—the calls that I've had asking where this is going to be heard, and why we're being put up in this room is really strange. We came here to hear the minister's staff and—

The Chair: Okay, fine. Let's proceed.

Mr Mancini: Wouldn't want to keep the minister's staff waiting.

The Chair: Okay, Mr Mancini—

Mr Mancini: It's okay that people can't watch the proceedings, but we don't want to keep the minister's staff waiting, Mr Chairman.

The Chair: Okay. Well, the one thing is that at first the subcommittee didn't request the technical briefing. Another meeting of the subcommittee agreed that there were some people who wanted private briefings, and this is why we're having them. It was optional this morning, if any committee members wanted to come for this. I just want to make that known. If someone's not here, it was optional.

MINISTRY OF FINANCIAL INSTITUTIONS
WILLIAM M. MERCER LTD

The Chair: We'll carry on now with the technical briefing, and I believe the deputy minister is Mr D. Blair Tunny.

Mr D. Blair Tully: Tully.

The Chair: I pronounce names wrong all the time. That's either your first name or last name. You know how they write them sometimes; you never know. But if you don't mind introducing yourself and your colleagues there, you may begin. We have about one hour. Okay, go ahead.

Mr Tully: Thank you, Mr Chair.

The Chair: Tully. I'm sorry.

Mr Tully: What I intend to do is make some opening remarks describing the principal features of the bill and to describe for the committee the provisions and the regulation; then have a short presentation by representatives from William Mercer Ltd, who have been our actuaries in this exercise; and then to call some of my colleagues from the auto insurance review forward to join me for any questions which members of the committee might have.

With me at the table right now I have Mr Gordon Hall, the vice-chairman of William Mercer Ltd in Canada; Stan Khury, a consulting actuary and managing director of William Mercer; and Ted Zubulake, who is a principal and consulting actuary with William Mercer. I have them at the table at this time because I think it will be—

Mr Mancini: What is this gentleman's name?

Mr Tully: Ted Zubulake. I think it's easier to have them here now, and we'll just move into the Mercer presentation and then reorganize ourselves for the question period.

I intend, first, to describe the principal features of the bill and, since they are so closely connected in terms of the government's plans, the statutory accident benefit schedule, which will be a regulation under the Insurance Act.

My presentation will take place in four parts: firstly, an overview of the bill; secondly, a description of the provisions of the bill dealing with benefits and access to tort action; thirdly, the benefit provisions of the regulation; and fourthly, the statutory provisions which regulate the insurance industry.

I'll start with my overview of the bill. Firstly, Bill 164 is an act to amend existing legislation, primarily the Insurance Act but also certain other acts, in respect to automobile insurance as well as other insurance matters. I intend to provide a broad-brush review of the kinds of amendments contained in the bill and to describe for the members where these can be found.

The amendments related to auto insurance take up most of the bill. Generally, these are in sections 11 to 43 and 49 to 52.

There are three major areas of change: those sections dealing with changes to the system of compensation for people suffering losses in automobile accidents, those dealing with changes in the regulatory system which oversees the auto insurance industry, and those which will update the Insurance Act as it relates to automobile insurance. The other sections of the bill are mostly technical amendments.

Because this is an amending bill, sections relating to the same subject are scattered throughout the bill. Therefore, I will talk about the three major areas of change in the bill and where related amendments can be found, rather than trying to deal with the sections of the bill in numerical order.

Changes are made to the system of compensation for people suffering losses in automobile accidents in bill sections 24, 25 and 26, on pages 16 through 23. The bill removes the right to sue for pecuniary, or economic, losses suffered as a result of automobile accidents. At the same time, it lifts existing restrictions to sue for non-pecuniary losses, or pain and suffering. Section 1 on page 1 of the bill changes the term "no-fault benefits schedule" to "statutory accident benefits schedule" throughout the act, and the bill requires that every contract of automobile insurance issued in Ontario provide the benefits set out in this schedule. At pages 20 to 23, there is a list of benefits in the statutory accident benefits schedule and there is a provision for indexing them.

In order to make the administration of the statutory accident benefits schedule run more smoothly, the bill also provides that regulations, called rules, can be issued to assist in interpreting the schedule. The commissioner of insurance is also given the authority to issue guidelines which must be considered in the interpretation of the schedule.

The bill contains a number of amendments which are required to support the new statutory accident benefits schedule and to make it work well.

Section 3, on page 2 of the bill, expands the role of the accident benefits advisory committee. This committee, appointees with a cross-section of interests in automobile insurance, currently makes recommendations on the appointment of arbitrators and advises on procedures used during arbitrations, as well as performing other functions assigned to it by the commissioner or the minister. The committee will now be specifically mandated to advise the commissioner of insurance and the Minister of Financial Institutions regularly on the operation of the statutory accident benefits schedule.

There are changes to both the Workers' Compensation Act and the Health Insurance Act which will be made as a consequence of the new compensation system. These changes are found at the end of the bill on pages 33 and 34.

The second major area involves changes to regulatory powers affecting the activities of automobile insurers.

A number of provisions in the bill are designed to work together to provide the insurance commission with expanded market management capacity and to ensure the continuing availability of automobile insurance. Section 11 of the bill contains new controls over the withdrawal of automobile insurers from the market. Section 18 gives the commissioner more power to control the underwriting grounds being used by insurers. Section 49 amends the Compulsory Automobile Insurance Act, which governs the Facility Association, or insurer of last resort.

Provisions in subsection 12(11) and sections 36 to 42 allow for the prescribing of the elements of the risk classification system used by insurers. This regulatory capacity will enable the government to eliminate the use of discriminatory factors, such as age, sex and marital status, in any insurer's risk classifications, and provide for the establishment of a uniform approach to the classification systems used by insurers. Sections 36 to 42 also give the commissioner powers to limit the rate dislocations that might arise in changes to classification systems.

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A number of technical changes to the automobile insurance system are dealt with in sections 13 to 18 and sections 25 to 29.

Other amendments to the Insurance Act, including changes to the dispute resolution system, are found in sections 30 to 33 of the bill. They allow arbitrators and the director of arbitrations to make interim orders. Arbitrators are specifically provided with the authority to make interim awards of expenses, which will help the insured person to defray the cost of the proceedings as they go along. Arbitrators are also given the power to penalize persons who bring frivolous proceedings.

The bill also amends provisions of the Insurance Act that are not related to automobile insurance. Generally, these provisions are found in sections 3 through 10 and 43 through 48 of the bill.

New powers for the commissioner to limit the licence or seize the assets of an insurer found to be operating in a manner prejudicial to its policyholders are found in sections 8 through 10. These sections increase the power of the superintendent of insurance to seize the assets of an insurer. Under the current provisions of the act, the superintendent can only take possession of an insurer where there are solvency concerns.

Under the current act, the superintendent is only authorized to take possession of the assets of an insurer that is incorporated in Ontario. A number of insurers not incorporated in Ontario are licensed and do business here. The bill broadens the scope of the superintendent in relation to all assets held in Ontario.

Throughout this overview, I have referred to the regulations made under the act. The additions to regulation-making powers are all found in section 12 of the bill at pages 9 to 12.

I'd like now to turn to the provisions of the bill that deal specifically with compensation for personal injury and death resulting from motor vehicle accidents. The changes may be categorized under two broad headings: access to tort, that is, the ability to sue on the basis of negligence, and second, the framework for the new statutory accident benefits.

With respect to access to tort, the bill does essentially two things:

First, it ends the application of the current threshold system, including the abolition of the collateral source rule when the new provisions come into force.

Second, it introduces a new framework for access to tort. Access for economic losses will be eliminated and access for non-pecuniary losses, including care, companionship and guidance, will be subject to a deductible. The deductible for any individual claimant is \$15,000, except in the case of

claims for loss of care, companionship and guidance for which it is \$5,000.

I'll say more about the deductible in a minute, but for now I'd like to point out that the proposal to repeal the current provisions respecting the collateral source rule does not reflect a change in policy. The rule will no longer be required because the plaintiff will no longer be claiming economic losses in tort. It's not intended that collateral sources be deducted from non-pecuniary damages.

The transition will work in much the same way as did the OMPP, the Ontario motorist protection plan, with the changes to both tort and accident benefits being "read in" to the insurance policies on the day the provisions are proclaimed.

One of the effects of the proposed reforms will be to virtually eliminate liability-limit problems for accidents in Ontario. The reforms are premised on the continuation of the current ceiling on non-pecuniary damages that was created by the Supreme Court of Canada in 1978. This means that those who are most seriously injured in car accidents will be entitled to \$240,000, less the \$15,000 deductible, as compensation for their pain and suffering. The current approach used by the courts to assess non-pecuniary damages with a \$15,000 deductible will provide the appropriate recognition of fault in accidents, balanced by the availability of economic loss compensation for everyone through the automatic accident benefit schedule.

The legislation as currently drafted directs judges to assess the amount of non-pecuniary damages without regard to the restrictions on tort. An amendment proposed by the minister will further clarify the legislative intent by directing the courts to assess damages for non-pecuniary loss in the manner they would in other non-auto-related cases.

With the ceiling in place, the current liability coverage purchased by most people should be more than enough, and in fact, underinsured coverage should not be needed for accidents in Ontario.

Another issue addressed in the bill is allocation of fault when more than one person is negligent in an accident. There is no change to the policy of the current system whereby changes to the tort system do not apply to any negligent persons who were not at the scene of the accident; for example, the manufacturer of a defective car. However, rules are required to apportion liability in cases where there are both persons at the scene of the accident and others who are liable. The policy is the same as now: The other negligent parties should derive neither a benefit nor a burden as a result of the changes to the auto insurance system.

Before turning to the accident benefit provisions, I'd like to make a few comments on the deductible and the indexing of that deductible.

The reason for the deductible is twofold: to eliminate the smallest claims, which are seen to burden the system, and as part of the overall balancing of cost in the system.

A deductible is intended to reflect the intrinsic value of the claim. There are no arbitrary restrictions based on type or duration of injury. It provides the maximum flexibility to recognize the impact of the accident on the individual.

It is also seen to provide greater certainty, because it taps into the existing settlement practices for non-pecuniary losses. Although each plaintiff is unique, it's not difficult to

establish a range around which a claim may be settled. The use of a verbal threshold introduces an element of uncertainty which makes settling more difficult and consequently more expensive. Also, based on the Michigan experience, it is subject to considerable change. Fluctuations in interpretations can increase transaction costs.

Case law has established that the cap on non-pecuniary damages is indexed to inflation. To ensure that recovery of non-pecuniary damages will be consistent over time, a provision has been included in the bill to index the deductible.

The minister has also indicated that he intends to establish a committee to develop general guidelines on what a \$15,000 claim represents. This is not intended as a new threshold, but rather a guideline that will assist injured persons in evaluating whether it is worthwhile to pursue a claim. This is an approach proposed by the Alberta Automobile Insurance Board in its recent report on auto insurance reform in that province.

I'd like to mention briefly the other area where changes have been made to the compensation structure, the statutory accident benefits schedule. I'll take you through the provisions of the regulation where most of the changes have been made in a moment, but there are important changes in the bill itself.

The most significant change in the bill is the inclusion of a framework of the benefits that must be provided in the schedule, and a statement of some of the principles in providing compensation. These are found at sections 25 and 26 of the bill, pages 20 to 23.

The introduction of an accident benefits framework in the legislation itself is different from previous systems. For example, the types of benefits that must be included in the schedule are set out. The list is inclusive and does not prevent the addition of other types of benefits.

The schedule will set out either the amount of benefit which must be paid or the maximum amount payable. The bill specifies that when a monetary amount is established by the schedule, it cannot be reduced by a subsequent revision of the schedule. Any reduction would require an amendment to the act.

1030

The subsection on rehabilitation sets out the objectives in making rehabilitation benefits available to claimants, specifically reasonable measures which will reduce or eliminate the effects of any disability resulting from an injury and facilitate an injured person's reintegration into his or her family, the labour market and the rest of society.

This provision reflects the fundamental importance to the scheme of insurers' obligation to provide rehabilitation benefits. It does not, however, prevent a further refinement of what benefits and standards are to be available for rehabilitation but will provide guidance in disputes over entitlement.

Finally, given the significance of indexing to persons with permanent injuries, the principle and the method of calculation have been included in the bill itself, subject to terms, conditions and exclusions that may be provided in the regulation.

The new benefit structure will increase the importance of the accident benefits in the compensation structure. One major challenge, particularly in the context of private sector delivery, where there are many different providers, is to obtain consistency in interpretation and delivery of benefits.

Also, as many benefits are new, there may have to be adjustments from time to time.

To allow for greater flexibility, provisions have been added, as I mentioned earlier, to create rules interpreting the statutory accident benefits schedule, authorizing the commissioner of insurance to issue guidelines on the interpretation and operation of the schedule and to provide for regular review of the schedule by the accident benefits advisory committee.

Let me now turn to the statutory accident benefits schedule, which will be a regulation under the Insurance Act. A second draft of this document was released by the minister last week. First, I will describe the basic weekly benefits for earners, students, care givers and others. Second, I'll discuss certain other economic loss benefits, including provisions concerning rehabilitation, supplementary medical benefits and attendant care. I'll conclude with some of the new procedural provisions in the regulation.

First, with regard to the income replacement benefit, the maximum income replacement benefit is \$1,000, up from \$600 under the OMPP. This new ceiling covers approximately 97% of the working population in Ontario. An injured person who was employed in the three years before the accident is entitled to this benefit. The amount is 90% of the person's average net weekly income and the person chooses whether to calculate the average based on the 4, 52 or 156 weeks before the accident.

Some special adjustment rules are available to keep people from falling through the cracks. Special provisions deal with people in new jobs, those with future contracts and those who were or are on strike, layoff or leave of absence. Unemployment insurance benefits are included in calculating average weekly income. Adjustments are possible in certain situations after one year of disability.

There are special provisions for working seniors. Income replacement benefits for claimants over age 65 at the time of the accident are reduced gradually over four years. These claimants may also qualify for the disability benefit under part V.

Special rules also apply to the self-employed to ensure that the income replacement benefit better reflects their cash-flow losses from an accident. The benefit also takes into account new expenses like replacement salaries that are necessary because of the accident. Alternatively, a self-employed person can agree on a benefit with the insurer when purchasing his or her auto policy. The income replacement benefit would be based on the predetermined amount if the self-employed person has an accident.

There's a minimum income replacement benefit of \$185 for anyone unable to perform one or more activities of daily living because of the accident. Activities of daily living include personal care, mobility, household or communication activities.

A loss of earning capacity benefit replaces the income replacement benefit after two years of disability. It represents compensation for a total or partial disability resulting from the accident that affects earning power. It's the difference between what the person could earn before the accident based on the income replacement benefit and an assessment of what he or she can earn after the accident.

Where claimants and insurers are unable to agree on an appropriate benefit, an independent assessment of post-accident

earning capacity will be conducted by facilities accredited by a committee established under the Insurance Act. The facilities will assess the personal and vocational characteristics of the claimant and identify a job that the person is able and qualified to do. The job must be of a kind available in the area where the claimant lives.

Either the insurer or the claimant can appeal the assessment. The loss of earning capacity benefit will be reviewed at three and eight years following the initial establishment of the benefit. The claimant can also ask for a review if he or she suffers an unexpected permanent deterioration.

The schedule also provides for temporary income supplements if an accident-related injury leads to a future interruption in employment. For example, this supplement could be available if the claimant missed work for an operation needed several years after the accident.

Loss of earning capacity benefits are replaced at the age of 65 with a kind of pension benefit. Claimants receive 2% of the final benefit for each year they received weekly benefits, to a maximum of 35 years. This is payable for life and is in addition to other pensions payable to the person.

The new schedule provides significant enhancements in benefits for students. Students are entitled to two types of benefits: lump sums for the loss of a school year and weekly benefits. These benefits will increase with inflation. Students can receive one lump sum benefit per year of lost education. Only one lump sum benefit is payable after the age of 16. The benefit is \$2,000 for each lost year of elementary school, \$4,000 for each lost year of high school and \$8,000 for each lost year of post-secondary education.

Disability benefits are payable to students over the age of 16 unable to continue with their studies. Benefits for up to two years of disability are based upon 50% of the net average weekly earnings in Ontario.

When a student reaches age 16 or has been disabled at least two years, the student is entitled to a loss-of-earning-capacity benefit. The pre-accident earning capacity is deemed to be a percentage of the net average weekly earnings in Ontario. This percentage ranges up to 90% of the net average industrial wage in Ontario at the age of 30. Benefits are adjusted to reflect a partial disability. Students who qualify may choose to receive an income replacement benefit instead of student benefits.

People who care for children under the age of 16 or for physically or mentally incapacitated people are entitled to care giver benefits. The benefit is available to those who are not working full-time and are not self-employed at the time of the accident. The benefit is \$250 for a care giver who is caring for one person at the time of the accident and \$50 for each additional person for whom care was being provided. The benefit is payable as long as the child or disabled person being cared for is less than 16 or continues to require care.

After one year of disability, care givers who have left the workforce to provide care qualify for special treatment. The care giver is entitled to an income replacement benefit based on earnings in any six-month period during the three years prior to the person becoming a care giver. This old income base is indexed for inflation to reflect what the care giver might be earning at the time of the accident. A person who qualifies for more than one type of weekly benefit can choose between them.

An injured person who does not meet the criteria for any other weekly benefit may qualify for a disability benefit of \$185 per week. This benefit recognizes the situation of those who are unable to carry on their normal lives as the result of an auto accident. The concept used is an inability to perform one or more activities of daily living. In certain situations, a person receiving this benefit may qualify for a permanent loss-of-earning-capacity benefit after two years of disability.

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Aside from the weekly benefits, the regulation also provides for other economic benefits. I'll turn to some of these.

Death benefits are the most significant. They're payable to the spouse and dependants of a person killed in an auto accident. A spouse receives four times the annualized income replacement benefit to which the deceased person would have been entitled. The minimum benefit is \$50,000 and the maximum benefit is \$200,000. The OMPP provided a basic death benefit of \$25,000 to a surviving spouse.

The spousal benefit is paid to dependants if there is no surviving spouse. A dependant benefit of \$10,000 is also payable to each dependant of the deceased. Dependants are those who were primarily dependent upon the deceased for care or financial support. The \$10,000 benefit is also available to a former spouse if the deceased person was obligated to provide him or her with support. Ten thousand dollars is also available to a supporting individual where the dependant dies in an accident; for example, a parent who loses a dependent child in an accident.

Reimbursement for the cost of funerals is provided up to \$6,000.

Reimbursement for child care expenses that result from the accident is payable to injured people who are working at the time of the accident. The benefit is up to \$75 a week for the first dependant and up to \$25 for each additional dependant. The maximum payable is \$150. This is a new benefit for earners. Under the OMPP no child care benefit was available for people who were entitled to the income benefit.

A new provision provides coverage for housekeeping and home maintenance expenses. Coverage for such expenses was unclear under the OMPP.

With slight differences, this draft regulation continues the exclusions from weekly accident benefits that were in the OMPP. Those excluded include those convicted of a drinking and driving offence arising out of the accident or of driving while uninsured.

Exclusions do not apply to weekly care giver benefits because the recipients will need the money to provide for replacement for the children and disabled people in their care. Under OMPP, \$50 per week per dependant was available for the care of dependants of excluded individuals.

I turn now to the regulation provisions outlining entitlement to supplementary medical benefits, rehabilitation benefits and attendant care benefits. These are found in sections 32, 33 and 34 on pages 36 to 40 of the draft regulation. These benefits have all been enhanced in the proposed regulation.

The principal change to the medical and rehabilitation benefits is the elimination of the limit or caps on these benefits. The OMPP has a \$500,000 cap on medical and rehabilitation benefits and limits medical and rehabilitation benefits to the 10 years following an accident, 20 years for children. These

limits have been removed to provide greater protection to the long-term disabled where the duration of treatment may last a lifetime and accumulate to over \$500,000. These expenses have also been separated into different sections in order to clarify and broaden the current list of eligible expenses.

As I indicated earlier, a rehabilitation principle has been included in the bill, and it is reinforced in the regulation. This principle states that an insured person who is injured in an accident is entitled to be reimbursed for reasonable measures taken to reduce or eliminate the effects of any disability resulting from the injury and to facilitate the insured person's reintegration into his or her family, the labour market and the rest of society.

Where there is a dispute over payment of medical expenses, an insurer is normally obliged to pay the expenses while the dispute is being resolved. The regulation limits this pay-pending dispute obligation to medical expenses of less than \$3,000, however. The \$3,000 limit has been included to address large medical expenditures which may not be recoverable at the outcome of a dispute or which may cause financial hardship on an insured person who could be asked to repay. An insurance company would continue to have the right, as it does under the OMPP, not to pay for rehabilitation expenses where a dispute exists.

Insurers may require a certificate from a treating physician or a psychologist before paying for rehabilitation expenses. This is consistent with the OMPP approach of having physicians and psychologists act as gatekeepers to rehabilitation services. One change from the OMPP is that health professionals under the new Regulated Health Professions Act will be permitted to authorize rehabilitation expenses as long as the treating physician or psychologist does not disagree with the recommended service. Chiropractors will not have to have their own services certified by a physician or psychologist, but will not be able to certify the need for services of another regulated health profession.

Long-term care, or attendant care as it is referred to in the draft regulation, will no longer be subject to a \$500,000 lifetime cap, and the maximum monthly benefit of \$3,000 will now be indexed. This will provide greater protection to the long-term disabled. Under the OMPP, this benefit could be exhausted in under 14 years.

Entitlement to attendant care benefits has been clarified by describing attendant care as the services provided to assist the insured person in performing activities of daily living. The attendant care benefit can also be used to pay for a nursing home, home for the aged or chronic care hospital. The benefit could be used to reimburse a person who loses income to care for an injured person, so if a person wants to stay home from work to look after an injured family member, that lost income can be recovered.

Before incurring medical, rehabilitation or attendant care expenses, an insured person may ask to have expenses pre-authorized or directly billed to the insurer. This will make it easier for an insured person to incur lengthy or expensive treatment or services. Under the OMPP, these expenses are reimbursed on an expense-incurred basis. Often the insured person must pay for these expenses out of his or her pocket and then send the bill to the insurer for recovery.

Rehabilitation and attendant care benefit entitlements will be subject to further development and clarity as the result of a task force established by the Minister of Financial Institutions last week. The task force is made up of representatives of insurance companies, consumers, rehabilitation specialists, accident victims and government. The mandate of the task force is to establish a framework for the control of rehabilitation and attendant care costs to replace the caps that will be removed by Bill 164.

There are new procedural protections in this regulation. The most significant governs the stoppage of weekly benefits. There have been complaints under the OMPP that insurers sometimes unreasonably cut people off weekly benefits. This leaves the claimant without income benefits while the issue is mediated and appealed. This has changed. Now, where there is a dispute based on the opinion of the treating physician or psychologist and an insurer's medical adviser, an assessment will be provided by a third, independent professional. The parties can either agree on who the independent doctor should be or can apply to have one appointed by an advisory committee set up under the Insurance Act. The insurer can dispute the assessment of an independent doctor, but must continue to pay benefits until the dispute is resolved.

To assist claimants in applying for benefits, insurers are required to provide an explanation of the benefits available under the regulation and must provide information to assist claimants in making choices.

The last point I want to make with respect to the regulation is that the auto insurer is still a "second payer."

The Chair: Excuse me, could I just break in? Mr Mancini.

Mr Mancini: On a point of order, Mr Chairman: I've just been informed that the committee has a copy of Mr Tully's presentation and that it was not handed out to the committee members at the beginning of Mr Tully's presentation. We have been scribbling furiously to try to keep track of everything that Mr Tully has been telling us when all along we've had copies of his presentation sitting before you. What is going on here? Why can we not have copies of Mr Tully's presentation?

The Chair: I'll let the clerk answer this because I just requested of him copies. He said he had them already.

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Clerk Pro Tem: Mr Mancini, I was asked by the staff of the deputy minister to hold on to Mr Tully's statement until he was finished.

Mr Mancini: Well, I appreciate that—

Mr Charles Harnick (Willowdale): Why?

Mr Mancini: Just a minute, I've got the floor. I appreciate that, but with all due respect to Mr Tully and his staff, he is not in charge of this committee. Our Chairman, Ron Hansen, is in charge of this committee and it's up to him to make these decisions.

Frankly, Mr Chairman, the work of this committee has not gone smoothly, as you know, and to have that information sitting before you while members are trying desperately to keep up to snuff with what the delegation is telling us is just

not right, fair or in any way proper. I would request that we get to copy that information immediately.

The Chair: Mr Tully, do you have a problem handing this out? Normally when we have submissions from the finance and economics presenters, the opposition and the government can make notes beside questions they want to ask later on. It's unusual in this committee not to give information to the members of the committee and they can make notes as they go along.

Mr Mancini: Mr Chairman, you have that authority. You don't need anyone's permission.

The Chair: No, no. I'm just saying that I would rule the other way but it's nice to have an agreement.

Mr Mancini: I appreciate that.

The Chair: Okay, Mr Mancini? Fine. We'll hand them out now and notes can be made. What page are you on, sir?

Mr Tully: Page 30.

The Chair: Okay, and carry on while we're handing them out.

Mr Tully: I was in the middle of the page on page 30. I think that's the same version.

The last point I want to make with respect to the regulation is that the auto insurer is still a second payer. If an injured person has an employer-sponsored sick leave or long-term disability plan, the work plan pays first. The auto insurer tops up the other coverage by the maximums in the schedule. For example, the auto insurer will pay up to \$1,000 on top of other coverage, to provide a maximum benefit of 90% of net income.

Sick leave benefits are only deducted if the injured person receives them. If a person chooses not to use his or her sick leave, the auto insurer cannot deduct these amounts. A one-week waiting period for income replacement and disability benefits continues.

Finally, then, I will turn briefly to the provisions in the bill regulating the insurance industry, specifically the concepts of underwriting, risk classification and rates.

Drivers are entitled to know the grounds upon which an application for auto insurance may be rejected by insurers. At present, insurers are required to file a list of the grounds they use and the commissioner may at any time challenge a ground on the basis that it is arbitrary, not predictive of risk or is contrary to public policy. The bill proposes to alter this slightly. Insurers will have to file grounds at least 15 days before they can use them. The commissioner will be able to review and challenge any ground before it can be used. The regulation-making powers that govern risk selection grounds have been changed slightly to make them more flexible.

Bill 164 introduces the concept of a risk classification system, which refers to the elements that are used by an insurer to classify risks in order to determine the appropriate premium to be charged. These would be things like driving record, type of vehicle etc. The risk classification system replaces the present concept of class of risk exposure. The bill contains the power to prescribe the elements of a classification system, including the use of a uniform classification system by regulation. This will permit the abolition of the use of discriminatory criteria, such as age and sex, and the introduction of uniform criteria and rules that must be used by all auto

insurers for specified classes of automobile insurance or coverages. A uniform risk classification system will assist consumers because it will be easier for them to understand how driving characteristics influence insurance rates.

Amendments are also proposed to smooth out the transition from the classification system used by any individual insurer. Regulations may be prescribed limiting the percentage and/or dollar changes in rates in a given year that might result from changes to the elements of a risk plan. In the event that an insurer cannot stay within the prescribed range, it must apply to the commissioner to phase in the new classification system. The commissioner may approve the insurer's phase-in plan if it meets certain public interest statutory tests. This is designed to minimize the disruption to both the insurer and the market. The commissioner will also be required to monitor the operation of the risk classification system and consult regularly.

The bill also enables the commissioner to request rate refilings from insurers instead of proceeding directly to a rate hearing. The commissioner will be able to deal with stale rate filings in a more effective manner.

As I indicated earlier, certain proposals in Bill 164 address the issue of auto insurance availability and market stability and the operation of the Facility Association. The plan has a "take all comers" provision that requires insurers to accept almost all applicants for private passenger automobile insurance at their approved market rates. However, "bad risk" applicants that meet a number of tests can be rejected by insurance companies and referred to the Facility Association.

The Facility Association is intended as an insurer of last resort and its rates are higher than those charged in the regular market. It is a collective pool managed by insurance companies who provide servicing capacity. Over the last several years, many people have been placed in Facility, even if they do not have demonstrably bad records. Under an agreement reached with the industry, only bad risks will in future be placed in the Facility. All others will be insured by regular insurance companies at their own rates. However, insurers may choose to share the risk on some business that can no longer be placed in the Facility Association through an invisible industry risk-sharing pool.

Other legislative changes will strengthen regulatory supervision of the Facility Association and clarify the obligation of individual automobile insurers, which are required by law to be members of the Facility Association.

There have been occasions in the past when auto insurance has been difficult to obtain because insurers decided to stop writing new business in certain areas. Amendments to Bill 164 propose to give the commission a window on insurance availability so that trends can be identified. An insurer intending to withdraw from any part of Ontario or from the entire province must give the commission 180 days' advance notice. The commissioner will assess the impact of the proposal on market availability and may permit earlier withdrawal or delay the withdrawal for up to an additional 90 days.

Notice will provide the commission with an improved capacity to ensure market availability of a compulsory product. The withdrawal provision is not intended to apply to the day-to-day business decisions of insurers.

This concludes my remarks on the bill and the draft regulation. I would now like to ask the representatives of William M. Mercer to describe the actuarial work they have done on the package.

The Chair: Fine. Go right ahead.

Mr Gordon M. Hall: Thank you, Mr Tully, and members of the standing committee. I am Gordon Hall, vice-chairman of William M. Mercer Ltd in Canada. I have acted as the overall project manager in connection with the preparation of the actuarial costing of *The Road Ahead: A Comparative Study*. It's been prepared for the Ontario Automobile Insurance Review. This study was published in June 1992.

It's my pleasure to introduce summary information about Mercer that's directly applicable to the study and to introduce Mr Stan Khury, who had responsibility for the technical direction of the study and who will make some remarks about the study this morning and will be available to answer questions. I'd like to also introduce Mr Ted Zubulake, who was heavily involved with the analysis and interpretation and who is assisting Mr Khury today. Other Mercer team members included Mr Karlinski, Mr Wright and Ms Bass. They are not in attendance today.

First of all, I'd like to provide brief information on the Mercer organization that's directly applicable to this study. Mercer is an international consulting firm with operations in over 20 countries and with a staff of over 6,300 employees. Professional services are provided by the Mercer firm to clients in the fields of actuarial science, pensions, benefits, human resources and insurance.

In conducting this study, Mercer drew on its extensive background and experience in automobile insurance in Canada and in the United States.

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Specifically, the project team brought Ontario-specific background that began with a 1987 study for the Ministry of Financial Institutions, and Mercer's involvement has continued since 1987 with hearings by the Ontario Automobile Insurance Board. It has continued with consultations to the Ontario Insurance Commission, which was created following passage of OMPP, and it has continued with the preparation of this analysis related to the report for the Ontario automobile insurance review.

The project team's experience includes many years of direct involvement with all aspects of automobile insurance transactions in more than a dozen jurisdictions in North America.

Summary information setting out the professional credentials, the business experience, the responsibilities of all of the team members, including those specifically for Mr Khury and Mr Zubulake, are part of the package that I believe has been handed out to standing committee members; I'll therefore not elaborate on those details of our two specialists here this morning.

I'd like to call on Mr Khury to make remarks regarding this study.

Mr C.K. Khury: I have a brief statement, perhaps 10 minutes' worth. We appreciate the opportunity to present a brief statement on the actuarial costing project that Mercer has carried out for the Ontario auto insurance review.

The purpose of this statement is threefold: (1) We would like to provide some brief background on our choice of methodology; (2) we would like to summarize the key conclusions of the study; (3) we would like to present you with the status of our key conclusions, given that more recent data have become available since our study was completed.

First, some background: Our mandate from the auto insurance review was to conduct an actuarial study that would yield a comparison of loss costs and corresponding premiums for three alternative auto insurance products as of July 1, 1992. The first product was the tort product we referred to as the pre-OMPP product; the current product, that is, the OMPP product; and The Road Ahead, that is, the product described in Bill 164.

The purpose of this study would be to assist decision-makers in their deliberations on alternative auto insurance models and their costs. This mandate did not include an assessment of the adequacy of rates or what companies are likely to file for in the course of implementing Bill 164.

Mercer brought together a team of its most experienced auto insurance experts. To give you a sense of the scope of the experience of the members of the team, I can tell you that each member of the team brought to the project roughly 20 years of experience in costing auto insurance products of all manner and variety in North America.

The most significant choice that faced the team early on was the choice of specific methodology and the data base that would be used to arrive at our costs.

In our experience, we have learned that the process of costing a particular product meant literally taking an available historical body of experience and estimating what would happen to that experience under the proposed product in the environment in which it is expected to operate. We have also learned that this process, modelling past history into a future environment, can be carried out in several levels of depth, ranging from a general conceptual analysis supplemented with numerical modelling all the way to a comprehensive analysis of each data item and assumption of the new system.

Mr Mancini: Mr Chairman, I note that the gentleman is reading from a text. Do we have copies of that text?

Mr Khury: It's just my own copy I'm working from here. It's not intended to be a statement on file. I'd be happy to make it available later. I did not intend to distribute this.

The Chair: Fine. As soon as it's done, we'll have the clerk make copies.

Mr Mancini: I appreciate what the gentleman has told us, but the gentleman has to understand and you have to understand that it's vitally important, because of the complex nature of the bill and because the gentleman is giving an actuarial summary which is technical and very detailed, that we be able to go over his presentation as he's making it. Otherwise, his presentation only serves his own purposes and not the purposes of the full committee.

The Chair: Okay, another thing I will request is the Instant Hansard for members of the committee also.

Mr Mancini: I appreciate that.

The Chair: Maybe any further witnesses coming forward, if they're going to read from text, could have copies of the text prepared for all members of the committee.

Mr Phillips: There may even be a photocopier somewhere in the building we could actually photocopy it with.

The Chair: If he's only got one copy, it's pretty hard for him to read at the same time as we're photocopying.

Mr Phillips: I realize that, but maybe after he's finished—

The Chair: Have you got an extra copy with you?

Mr Khury: I have some notes for myself, which I am reading; it is marked up for my use, sir. I will be happy to get this prepared—

Mr Phillips: Even more valuable.

Mr Tilson: Those are the notes we want.

Mr Khury: I want them to have it.

The Chair: Right after you're finished, if you can hand it to the clerk, the clerk can make some copies.

Mr Tilson: We want those handwritten notes.

Mr Phillips: We have our answer.

The Chair: I think Mr Mancini's just trying to show us that he can read and write too. All right, carry on.

Mr Khury: As I indicated, this kind of analysis can be carried out on several levels of depth, ranging from a general conceptual analysis with some numerical modelling all the way to a comprehensive analysis of each data item and assumption for the new system.

Early on, the Ontario auto insurance review indicated its interest in a comprehensive study, and we attempted to respond accordingly. The basic building block of data we used consisted of the then latest Ontario auto insurance experience. That was recorded and gathered in the pre-OMPP environment. This basic body of data was augmented by numerous other sources of information from other jurisdictions that have related experience under a variety of auto insurance schemes. This extraterritorial experience included data from Quebec, Michigan, New York, US-wide data on the impact of recessions on insurance data and so on.

We also drew on several one-time efforts—studies, interviews, surveys—aimed at sharpening the many assumptions we needed to make in order to complete our work. This effort included numerous consultations with law firms, adjusters, injury and rehab specialists and so on.

In our opinion, the process we have used has been most exhaustive and covered all that needed to be covered in order to answer the mandate given to us. In fact, in our collective experience, we have not known a more complete assessment of a proposed auto insurance product anywhere.

One special condition of this assignment has been the fact that the OMPP product was only recently introduced at the time we conducted our work. An experience under OMPP was, for all intents and purposes, non-existent. Therefore, the only historical Ontario claim experience we had on which we could rely at the time as a starting point was the experience generated under the pre-OMPP or the tort environment. Since our report was released, additional data have become available, and we have considered the updated experience in a brief update of our conclusions. That update will be provided to you later on in this statement.

Now I would like to turn to the key conclusions of the study. Very briefly, I would like to tell you that, although I give you the conclusions here, all of the methodology, description

of the methodology, the rationale and all the limitations are detailed in excruciating detail in the four-volume report, so I will not review any of that with you here. I will just describe the highlights of the conclusions.

(1) The indicated loss cost per car that would be necessary to pay for the product described in Bill 164 is estimated to be approximately 4.4% higher than the comparable indicated loss cost per car that would be necessary to pay for the OMPP product.

(2) The estimated proportion of injured persons who are not at fault who can effectively sue for non-economic damages under Bill 164 is 18.1%, compared to 5.8% under OMPP.

(3) The total cost of benefits paid to injured persons and their dependants under Bill 164 is estimated to be 13% higher under OMPP. This figure is composed of an increase of 45% in the cost of accident benefits and a 15% decrease in the cost of bodily injury liability awards.

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Mr Mancini: I'm sorry. Could you back up to the beginning of that? Slowly, please.

Mr Khury: I'd be happy to. Let me do that again. The total cost of benefits paid to injured persons and their dependents under Bill 164 is estimated to be 13% higher than under OMPP. This figure is composed of two things: an increase of 45% in the cost of accident benefits and a decrease of 15% in the cost of bodily injury liability awards and settlements.

Mr Mancini: Those two figures equal 13%?

Mr Khury: Yes, they combine weight to 13%.

The Chair: Mr Mancini, I think we'll have some time at the end, because you're taking up time, which will mean less time for all members to ask questions. If you'd just make notes. Carry on, sir.

Mr Khury: (4) The total cost of awards and settlements for non-economic damages under Bill 164 is estimated to be 45% of the cost under pre-OMPP, while the cost of awards and settlements for non-economic damages under OMPP is estimated to be 31% of the cost under pre-OMPP.

(5) The proportion of injured persons, regardless of fault, who are eligible for income benefits under Bill 164 is estimated to be 98%, while the comparable ratio under OMPP is 91% and under pre-OMPP is 62%.

One additional note: In the course of doing our work, the Ontario auto insurance review also asked us to examine and estimate the efficiency of various forms of delivery of insurance benefits to injured persons. Here, let me add that the term "efficiency" is used to mean the proportion of the claim dollar that is ultimately returned to the injured person after all expenses.

We conducted a special study on the subject and the results were recently released. Our key finding in this area is summarized for you as follows: Pure no-fault systems can be expected to return roughly 91% of the claim dollar to injured persons, while pure tort systems can be expected to return roughly 70% of the claim dollar. Other elements of efficiency were outside the scope of this study.

Finally, I would like to give you the status of our conclusions since new data have become available. As I indicated earlier, shortly after the release of our report, more current

insurance claim data became available. We took a look at the new data to try to estimate its effect on our conclusions.

In particular, we attempted to reflect the following: We reviewed the claim experience under pre-OMPP, specifically; second, we reviewed the experience that has emerged under OMPP; we reviewed the updated data on the recession in terms of the duration and depth; fourth and finally, we also reviewed the updated information we have on inflation and interest rates.

Based on this review, we can make the following two representations: (1) Our original conclusions on the relative cost of the OMPP and Bill 164 products remain essentially unchanged; (2) we also examined the emerging early OMPP experience on its own and we can find no contra-indication which would cause us to change our view of the relative cost of the OMPP and Bill 164 products.

One final note: We are told by the Ontario auto insurance review that several adjustments, changes and refinements in Bill 164 benefits have been proposed. We have reviewed those changes, and on balance, in our judgement, we find that those changes, if implemented, should not materially change the order of magnitude of the difference between the cost of the two products. Of course, finer comment on the effect of these revisions cannot be made until we have worked all the changes into our costing.

This is our brief statement. I return it to you, Blair.

Mr Tully: I would then ask—

The Chair: How much time is left in your presentation?

Mr Tully: We've completed our presentation. Now I would just ask some of my colleagues to join me at the table here and we'll entertain any questions the committee might have.

The Chair: Okay, fine. What I've asked the clerk to do is to hand out some paper and some markers. Can you mark your names down as you play musical chairs there, so it's easier for Hansard and for the members of the committee, so we all know whom we're talking to.

Mr Kwinter: Is it 15 minutes for each caucus?

The Chair: Each caucus. We start off with Mr Mancini.

Mr Tully: If I could—

The Chair: Oh, I see. I thought you were bringing technical staff.

Mr Tully: They are coming up, and I'll just introduce them for you so that you know, if they try not to be too shy and get up here quickly.

The Chair: What someone can do is sit in that chair right beside Mr Harnick and just turn the mike around. If someone wants to sit at that corner there, there are enough chairs. As long as you can get to a mike, that's the main thing for Hansard.

Mr Tully: If I could, I will introduce Mr Craig Simons, Ms Rosemarie Cochrane and Mr Eric Endicott.

The Chair: Are you ready for question period?

Mr Tully: We are.

The Chair: Okay, Mr Mancini, 15 minutes.

Mr Mancini: Mr Chairman, will you please let me know when 10 minutes are up, as Mr Kwinter has a number of questions?

The Chair: Okay, fine.

Mr Harnick: On a point of order, Mr Chairman: My understanding was that we were all getting 20 minutes and that was something decided by the subcommittee. Why are we now down to 15 minutes?

The Chair: Because of the time we lost.

Mr Harnick: I think we could probably survive if we stayed here till 12:15. I don't think anybody's going to starve to death by waiting 15 minutes for lunch.

The Chair: There is a problem there, because of a meeting that's going on at 12 o'clock for the government caucus at that time.

Mr Harnick: Quite frankly, the business of this committee is important and takes precedence over private meetings that the government caucus is having, and the fact that you are scheduling meetings and cutting down the time of this committee is totally improper.

The Chair: I am not cutting down the time.

Mr Harnick: We have an agreement that we get 20 minutes per caucus and that's what we're going to do. Who are you to unilaterally change the rules?

The Chair: Because I'm going within the time frame, and 12 o'clock was the time frame. Which frame do I look at, 12 o'clock?

Mr Harnick: You look at 20 minutes per caucus. This is very, very complicated material. These people have made themselves available, and the fact that you have some damn meeting that the government has to go to is totally irrelevant to the work of this committee.

Ms Haack: It's a memorial service for somebody who died.

Mr Owens: Excuse me, Mr Chair, just to add some historical clarity, first of all, the opposition, especially Mr Harnick, suggested that this technical briefing was not necessary. Later Mr Harnick came back and suggested that he wanted a private briefing.

Mr Harnick: That's totally untrue.

Mr Owens: This is not untrue. Second, this committee was supposed to begin at 10 am. We were delayed.

The Chair: Mr Harnick, would you withdraw that, because this is what this committee had heard also and this is why the subcommittee had changed and had the technical briefing and felt that. I think the clerk can clarify that. This was optional to any member who wanted to come; it wasn't necessary.

Mr Harnick: Let me explain something. We have a subcommittee and the subcommittee made rules. The committee started its hearings on the basis of the rules set out by the subcommittee, and that was that we were going to have one hour to question these witnesses. It's as simple as that.

Mr Owens: If you had deigned to show up on time, sir, then we would have been able to start.

Mr Harnick: I didn't tell you to wait for me.

The Chair: I'm sorry. If I could I get in here, Mr Mancini's sitting on the edge of his seat. We'll get going. We'll give him 15 minutes. We'll see what we can do at the end. Mr Mancini. We'll start over again. We'll set the clock back again.

Mr Tilson: Yes, set the clock back.

The Chair: Start your 15 minutes, Mr Mancini.

Mr Harnick: Set it back about four years.

Mr Mancini: Mr Tully, is it not correct that when the minister introduced this legislation he stated that there would be no rate increases?

Mr Tully: I think at the time the minister introduced the legislation, a little over a year ago, in the environment at that time and in a comparative sense, on the basis of the kind of indications of cost that Mercer's was providing to us, he indicated there wasn't a substantial difference in the cost associated with this product and what was being carried by the OMPP.

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Mr Mancini: Let's be very clear about this. The minister indicated and was quite specific in his words, both inside the Legislature and out, that he did not foresee any rate increases under Bill 164. Is that an accurate statement?

Mr Tully: I think particularly you should ask the minister that question.

Mr Mancini: Well, you and the minister work hand in hand. Let's not play semantics here. You're the deputy minister. You're providing the minister with information, and these experts who have joined you at the table are providing you with information. Having had some little bit of experience in government, I know ministers usually rely on their experts, their deputy ministers and others to make public pronouncements. I'm assuming you know as much as the minister knew and vice versa. Is it not correct that when Bill 164 was introduced, the idea, from the government anyway, was that there would be no rate increases?

Mr Tully: You'd have to ask the minister whether any specific comment like that was made.

Mr Mancini: What was your opinion at the day then, sir? Did you foresee rate increases with the introduction of Bill 164?

Mr Tully: My view was guided by the kinds of costings that were being provided to us by Mercer's which indicated there was a minor difference in overall costing between the OMPP product and that provided in Bill 164.

Mr Mancini: Can you give us your definition of "minor"? Is minor 1%, 2%, 3%, 15%? What is a minor difference, Mr Tully?

Mr Tully: The "minor" relates to the 4.4% which Mercer's is indicating in its costing analysis is the difference in cost between the two products.

Mr Mancini: What you're telling the committee this morning then is that when the Minister of Financial Institutions introduced Bill 164, you as deputy minister had enough information to conclude that rates could go up 4.4%.

Mr Tully: No. We didn't have the specific information that it was 4.4%. Mercer's costing and the full analysis of its costing wasn't completed for some months thereafter.

Mr Mancini: Then you didn't know if rates were going to go up or not, 4% or 15%. So it was obviously wrong of the minister and members of the government to go around saying there'd be no rate increases. That was obviously wrong.

Mr Tully: No. Mercer's had been consulting with us for some time and was honing in in terms of the specific numbers it was going to come up with and was indicating a difference—not that specific number—in the order of what the ultimate decision was.

Mr Mancini: I have a question for Mr Hall. I missed the last portion of Mr Khury's presentation, the last minute or so, but I did sit through the portion of the hearings where he compared the Ontario motorist protection plan and The Road Ahead plan. The figures I was able to copy down, because the information was not provided to the committee, indicated that on The Road Ahead plan—there was some other explanation that went along with that—the rates would go up 4.4% per car. Non-economic loss would be 18.9%, payments to injured persons, 13%, and there were a lot of other percentages that were used, all in excess of 4.4%.

Not being an actuarial expert but knowing that 18.9% and 13% are substantially greater than 4.4%, how is it that when we compile all these figures, which are all greater than 4.4%, we end up with an average of 4.4%?

Mr Khury: May I answer that? Actually, this is really an outstanding question. The thing that was not stated here which is relevant is that the property coverages, which is roughly 60% of the equation, has essentially no change. So you factor in zero for all of that, with all of these, and you get to about 4.4% change in the relative costs.

Mr Mancini: Sorry, what is not changing again?

Mr Khury: The property coverages.

Mr Mancini: The property coverages.

Mr Khury: Yes. Collision, comprehensive, the damage to the automobile itself is essentially unchanged; that's at zero.

Mr Mancini: So you're assuming that the costs of automobiles will not rise? You're assuming that the costs of repairing automobiles will not rise?

Mr Khury: No, sir.

Mr Mancini: You're assuming that the people who work in the body shops will not get increased wages? You're assuming that new technology and equipment will not be bought which will force costs to go up? You're assuming that new government regulations and taxes will not force the costs of repairing automobiles to rise? Is that your assumption?

Mr Khury: Absolutely not, sir.

Mr Mancini: What is your assumption?

Mr Khury: What I said is that the zero refers to if you were to play out the cost of repairing cars and the replacing of cars, the property coverages, if you look at the costs of that, whatever it is under OMPP, under Bill 164, that change, side by side, is zero. The annual rates of increase could be anything, but the relationship between the two products is weighed in at zero.

Mr Mancini: Now I follow your argument. I don't necessarily accept it, but I follow how you came to that conclusion.

Mr Khury: If I may just add, in fact we are assuming increases in the cost of repairing automobiles, but it applies under both products. Therefore, the relationship is unchanged; therefore, they come into the equation at 0%.

The Acting Chair (Mr George Dadamo): If I may jump in, Mr Mancini, here's your time check. You've consumed about 10 minutes. Do you want to leave five minutes?

Mr Mancini: You're kidding. I started at 11:22.

The Acting Chair: Oh, I'm sorry, five more.

Mr Mancini: Mr Tully, has the ministry taken any public opinion polls as to consumer satisfaction with regard to the current Ontario motorist protection plan?

Mr Tully: No, it hasn't.

Mr Mancini: Has any other body of government taken some type of public opinion poll which would result in the population being able to express an opinion?

Mr Tully: Not that I'm aware of in government.

Mr Mancini: So you don't know whether or not the public's happy with the current plan.

Mr Tully: No, I don't. I assume that's what these public hearings are for.

Mr Mancini: If you haven't seen any public opinion polls, I'm assuming then that the minister hasn't seen any and doesn't know whether the public is happy or not with the current Ontario motorist protection plan.

Mr Tully: I think you'd have to ask him that question.

Mr Mancini: But that would be a reasonable assumption to make. Since we don't know whether or not any public opinion polls were taken, was there any work done with focus groups?

Mr Tully: In the course of the exercise of preparing for Bill 164, no, there was not.

Mr Mancini: Did you check with industry associations? Did you check with people who provide the insurance to find out what kind of feedback they were getting from their customers? Did you check with the insurance commissioner?

Mr Tully: The auto insurance review?

Mr Mancini: Yes.

Mr Tully: The auto insurance review was consulted with over the past year.

Mr Mancini: Did they find a great deal of public dissatisfaction with the Ontario motorist protection plan that they reported to you?

Mr Tully: Yes, I think there has been.

Mr Mancini: They did?

Mr Tully: Certainly, in releasing Bill 164 and subsequently, the minister has spoken very much to the problems with the existing legislation that were identified by groups that we consulted with. That, of course, was the purpose of the establishment and continuation of the auto insurance review. Those consultations have been extensive and a number of the changes that are part of this bill and the draft regulation reflect the advice we've got.

1130

Mr Mancini: One last question, if I have time, Mr Chairman; it has to deal with the draft regulations.

These draft regulations are 68 pages long, and I defy anyone in this room who claims to be an expert on these draft regulations, particularly the government members. These draft regulations are basically turning the insurance system in Ontario into a copycat of the Workers' Compensation Board, and I'm wondering, from an administrative point of view, how many more employees is the government going to have to hire to administer this new Workers' Compensation Board we're putting in place? You must know the estimates, because Bill 164 has been in the public domain for quite a while now. How many more employees are going to have to be hired to administer these 68 pages of draft regulations?

Mr Tully: I'd say with respect to that issue that this is a more elaborate regulation, this being a draft regulation but a more elaborate regulation than that which exists currently under the OMPP. In length it's approximately twice as long.

Mr Mancini: I have the current regs and they're 18 pages, Mr Tully. The new regs are 68 pages. We all know how many pages there are. My question was, how many more government employees will you be hiring to administer the new draft regs?

Mr Tully: I appreciate that the version you have of the existing OMPP is a different kind of version. One is a typed foolscap version; the other one is a two-column legal drafting. I mean, we could argue—

Mr Mancini: How many more employees, Mr Tully?

Mr Tully: I was going to get to that issue and what is necessitated out of this product because there are so many cracks in the current regulation with respect to a variety of interest groups. There is a necessary provision of regulation relating to those things.

Mr Mancini: How many more employees, Mr Tully?

Mr Owens: Why don't you let him answer?

Mr Mancini: Well, my time is quickly expiring. All I want to know is how many more employees. Is it going to be zero, one, 50, 150? Surely the deputy can tell the committee that without an elaborate explanation.

Mr Tully: I don't have an estimate at this point of what might be required because, as I say, what one would expect out of a regulation that takes doubt and confusion out of what people are entitled to will reduce the amount of dispute that may go on in the system.

Mr Mancini: You're saying you don't know?

Mr Tully: I'm saying that at this point it's speculative to have an answer.

Mr Mancini: What is your speculation, Mr Tully?

Mr Tully: I wouldn't—

Mr Mancini: You don't know.

Mr Tully: I wouldn't have a response.

Mr Mancini: Maybe we need the insurance commissioner in to tell us.

The Chair: Okay. Mr Kwinter.

Mr Kwinter: Mr Khury, could you tell us the number of drivers in Ontario who claim on the system in a given year, a percentage of the number of drivers and the number who claim insurance?

Mr Khury: Would you narrow the question a little bit, please? It would be helpful. What kind of coverage are you talking about?

Mr Kwinter: All I'm saying is, let's say we have six million drivers in Ontario who buy insurance. What percentage of those ever have an insurance claim in a given year?

Mr Khury: Any insurance claim?

Mr Kwinter: Yes.

Mr Khury: This would have to be a speculation, because—

Mr Kwinter: I just want a speculation.

Mr Khury: Let me just tell you now; I'll give you my sort of folklore knowledge of this.

Mr Mancini: It's a speculation.

Mr Kwinter: I'll take a speculation.

Mr Khury: Basically, one accident can generate five claims. The only data that's available we look at is claims. I would have to guess at this point it would be—all coverages, I would have to say one third.

Mr Kwinter: Okay, so two thirds of the people pay insurance and never claim on it.

Mr Khury: I didn't say people, sir. There was about one third.

Mr Kwinter: Well, I'm asking about people.

Mr Khury: Then I don't have that.

Mr Kwinter: All right. Let's try to give the same transposition. I may be wrong in the way that you may wrong as well, but let's assume that of the people who pay insurance, one third of them claim for an accident and the other two thirds pay the insurance and never have an accident.

Mr Khury: Let me say again, sir, I did not answer you on people. I said this is claims that come up, about every car, like a third of the cars—

Mr Kwinter: You can't give me it. I'm just saying it seems—

Mr Khury: Hypothetical, okay.

Mr Kwinter: It seems to be reasonable, just for the premise, because what I want to do is spend a minute to talk about the insurance industry pre-OMPP, under the tort system. There was nothing wrong with the system. What was wrong was the perceived cost. Nobody could tell you—I was the minister at the time—what insurance should cost. All they know is, "Last year I paid \$600 and this year I'm paying \$1,500, and that's ridiculous," even though \$1,500 may be the best bargain they ever had in their lives.

The point I'm making is that this whole exercise is political as opposed to economic. The whole reason for all these things is that there are people out there who for whatever reason have been sold a bill of goods that their insurance costs should be cheaper. I'm saying to you, because most people don't understand insurance, that when they get their increase, whether it's 4.4% or whatever it is, the first reaction

is: "Why is my rate going up and I've never had an accident? This is ridiculous." That is what triggered this whole exercise.

If the point of the exercise is to provide better service and to do it at a cheaper cost, I say to you that this plan isn't doing it, because what it's going to do is create very much the problem that started this whole thing. People are going to say, "How come my insurance is going up when I've never had a claim?"

The Chair: Mr Kwinter, I'm going to have to go on to Mr Tilson.

Mr Tilson: I'd like to continue with Mr Khury with that line of questioning, because that's how this mess started. When the Liberals brought in OMPP, it was because of the insurance companies saying, "Rates are going to go up." It was a response to that. Both the Conservatives and the NDP at that time were very critical of the OMPP, and I will say that we continue to be critical of the OMPP.

There are four studies at least that we know of; there may be some others that the government hasn't told us about, although with due respect to Mr Tully, he doesn't seem to know a great deal. He doesn't know what this is going to do to the bureaucracy. I'm saying this with due respect, Mr Tully—I'm simply responding to your comments—that we really don't know where we're going in this direction as far as cost is concerned. You have said 4%. The other four studies, which have been done by four other firms, say something substantially different as far as what it's going to cost the consumers of this province is concerned. You're shaking your head. I'm sure you're aware of them. Wyatt is one.

Mr Harnick: Coopers.

Mr Tilson: Coopers is another. I believe the bureaucracy will be unbelievable. The comparison is being made to workers' compensation. Who's going to explain all this to people, not only in the insurance industry but the government, the insurance commission? It's going to be substantial.

Mr Chairman, if you could cut me off at 10 minutes, I know Mr Harnick has some questions.

The Chair: Okay, fine.

Mr Tilson: There's the tripling of the number of people, according to statistics, as to who can be sued and who will be required to pay for pain and suffering awards. The caps will be lifted on the accident benefit coverage to provide lifetime benefits and there's no dollar limitation with respect to that. There will be continuously increasing benefits, as Mr Tully has indicated, which would be indexing these benefits to the consumer price index. There will be an increase of the wage-loss benefit limit by 70%. The death and funeral benefits will be doubled. The benefits for students, the unemployed, the self-employed, again repeating what Mr Tully has indicated, will be expanded. All these costs are going to be substantial. Already you're outvoted, because there are three firms that say quite different things than what Mercer says.

I try to be a reasonable man in these things, and I listen to all of these things that this wonderful legislation is going to do. I, as an individual, cannot believe the 4% figure that you're saying. I have a terrible fear that this legislation is going to be passed, because these people rarely listen to what the opposition or anyone else says with respect to legislation—in the past anyway. I doubt if there will be any amendments.

All of a sudden, Bill 164 is going to be law, and I can't believe that the cost is going to be only 4%.

I'd like you to comment very briefly, because time is limited, in response to the other three studies—I can't believe you haven't looked at them—and second, in response to all of this package, as to what it's going to cost the consumer.

1140

Mr Khury: First of all, I have seen only one other costing of this. That is the one that was conducted by the Wyatt Co, I believe. I have not seen the other studies. The only comment I can make is about that. I know Coopers did a study. I was not aware that the Coopers study was a costing of—

Mr Tilson: Let's take Wyatt. Keep your comments on Wyatt.

Mr Khury: Yes. I'll be happy to give you our comments on the Wyatt report. Basically, I think the reconciliation that I will give you is that the Wyatt report stated that premiums are expected to go up by 12%, and the Mercer report indicated that the difference in cost would be roughly 4%. This is the reconciliation I'm prepared to give you right now.

Mr Tilson: I'll take anything at this stage, sir, because with all due respect, I can't believe your figures. However—

Mr Khury: Right. We have compared the Wyatt study to our work as much as we can, and we have not discussed the study with the Wyatt folks. But let me take out the areas on which we agree, indicate those, and then I can focus on the area of disagreement.

Remember, the comparison I've given you of the 4.4% compares the costs of delivering the product under Bill 164 and under OMPP. That relationship is 4.4%. That is in components, as I indicated earlier to Mr Mancini. The property coverage is essentially coming to that equation at zero. Between Mercer and Wyatt, if you take the bodily injury coverage, if you take the income disability benefits, if you compare those between Bill 164 and OMPP, then we find we're in the same ball park. There really are not very substantive differences.

The area we have found where there is substantial difference in that relationship is in the area of the medical costs. There is a very huge difference here. For example, we estimate the cost will go up around 20% and Wyatt, I believe, estimates the cost will go up around 90%.

Mr Tilson: Why are you different from Wyatt?

Mr Khury: I'm going to get to that. We have identified numerous reasons for this difference. I will not go over all of them. I will give you three key ones to illustrate the nature of the difference.

First, Wyatt assumes a much higher number of long-term disabled who will enter the benefit system than we do, roughly twice the number that we assume. That's one very important difference.

Second, Wyatt assumes that a high percentage of the long-term disabled would require continuing home and workplace modifications. The assumption of the Wyatt study is roughly \$10,000 per year for each year of disability up to age 65. Then the number goes down to \$5,000 per year for each year of the remainder of life. Our assumption on that is

\$30,000 a year, one time. That's very substantial; this is roughly one third of the difference.

A third example I will give you is that the Wyatt report assumes that medical and rehab benefits will be spread uniformly throughout the term of the disability of the long-term disabled. That's essentially for life. We feel that most of the rehabilitation work will be incurred at the front end, after the accident, and will taper off substantially, as opposed to assuming it will continue for the duration of the disability.

There are many other differences. If you put all these together, these things compound and they just contribute to an enormous difference.

That is the reconciliation we've been able to come up with between our 4% and the Wyatt 12%.

Mr Tilson: Given what OMPP does and given what this bill is suggesting, I would then like you to comment on the second part of my question as to all these wonderful things Bill 164 is going to do while costing the consumer only 4% more.

Mr Khury: Remember, the work we have done is really in comparing how things would operate under two different environments, what the cost would look like.

Mr Tilson: The real question is getting back to Mr Kwinter's question: What is Bill 164 going to cost the consumer? You say 4%, yet Bill 164 is going to be doing an awful lot more than what OMPP or tort ever did.

Mr Khury: Let me try to answer you, sir. First, 60% of the package is untouched: That's the property coverages; that's coming into the equation at zero. The recoveries under bodily injury are going to be reduced.

Mr Tilson: The lifting of the caps on the accident benefits alone is going to create unbelievable cost.

Mr Khury: May I answer the question, sir?

Mr Tilson: You're right. Thank you.

The Chair: One minute before we go to Mr Harnick.

Mr Khury: We estimate that the cost of accident benefits, just that piece you're talking about, will go up by 45%. Against that, we have the reduction in the bodily injury of roughly 15%—

Mr Tilson: The economic loss?

Mr Khury: Yes, the elimination of the economic loss and the effect of the deductible. That generates about a 15% reduction, and the property coverages come in at zero. So if you average the zero and the reduction of 15% on 45%, you get 4.4%. That's really that balance. I think you're focusing on all the things that go up. There are other things that are mitigating.

Mr Harnick: My first question is for Mr Tully. Sir, the NDP made certain promises in 1990. They said quite simply that they were going to restore the right to sue for pain and suffering and for economic loss and they were going to hold the line on premiums. Does this plan fulfil this promise? It's either yes or no.

Mr Owens: Is there another choice?

Mr Tully: I think that's a question that you should properly address.

Mr Harnick: No, sir. Quite frankly, you understand this. You wrote the legislation with your friend Mr Endicott. Tell me, does this fulfil the promise the government made? It's a very simple question, and you more than anyone else understand this piece of legislation. You wrote it.

Mr Tully: I think this legislation meets the—

Mr Harnick: Does it fulfil the promise that was made?

Mr Tully: It's seen to fulfil the commitment made by the government.

Mr Harnick: So the government, you're telling me then, promised people it was going to take away their right to claim for economic losses. Is that correct?

Mr Tully: I didn't say that.

Mr Harnick: Let's go on to the next question. I've read this material, and it seems to me that you're sanctioning a scheme where people can still suffer an economic loss beyond what their accident benefits will pay them. Is that correct? Is that possible?

Mr Tully: I think this plan provides reasonable—

Mr Harnick: No, no. Just tell me if people are going to suffer that economic loss.

The Chair: Mr Harnick, would you let him answer the question.

Mr Harnick: I'm not asking what the plan provides. Is it possible that someone will suffer an economic loss beyond what the accident benefits pay?

Mr Tully: Yes, it's possible.

Mr Harnick: Thank you. So you are sanctioning a scheme where people are going to suffer economic losses. That's the first thing.

Now let's talk about fatal accidents. The maximum anybody can get for a fatal accident is \$200,000, correct?

Mr Tully: Yes.

Mr Harnick: All right. And if somebody has an income, if a breadwinner—a man or woman who has a family—has a loss of income of \$50,000 a year if that's what they're making at the time they're killed, it seems to me that in four years they've exhausted the \$200,000 they're going to get from this brilliant insurance scheme. They might have a lifetime working loss of \$50,000 a year and you're going to recompense them for four years. Is that correct?

Mr Tully: I think you have to take into consideration that other forms of life protection—

Mr Harnick: What if they don't have other forms of life protection? We're just talking about the auto scheme you've come up with.

Mr Tully: And relative to the current plan that provides \$25,000 in death benefits.

Mr Harnick: Well, the current plan, as I understand it, is that if you have a fatal, you've passed the threshold and you can sue for your actual loss. So don't give me that garbage, because that's exactly what it is.

Mr Tully: If you've got somebody you can sue, if you were not at fault. I think you're making a generality out of a very specific case.

1150

Mr Harnick: Well, sir, \$200,000 is the maximum you can get. It seems to me that that covers four years at \$50,000, if that's what someone's earning. If someone's earning \$50,000 and has a working life expectancy of 20 more years to look after paying the mortgage for his family, to look after sending his kids through university, 20 years times \$50,000 comes out to about \$1 million. If you commute that to present-day value, it's probably \$600,000. You're going to pay \$200,000. There's a \$400,000 loss from this brilliant plan you have. Correct?

Mr Tully: This is not correct.

Mr Harnick: You're going to give someone \$200,000 for a \$600,000 loss.

Mr Tully: This is not correct in the generality of situations. There may be a situation where someone doesn't have any other protection which people do have against death.

Mr Harnick: Are you telling me that this plan is all based upon people having other protection?

Mr Tully: No, I'm not.

Mr Harnick: That's what you just said: The beauty of this plan is that we have to have other protection to protect ourselves.

Mr Tully: The reality is not the kind of situation which you're describing.

Mr Harnick: Let me ask Mr Endicott a question. How can an insured person be expected to understand these regulations? The regulations in fact are in the standard form policy. When I go out to buy my policy, my insurance agent hands me the policy and says, "There it is; it's all there." How is any individual who is buying insurance today expected to understand what's in that policy, those 68 pages of regulations? How can an insured person who obtains an insurance policy ever expect to understand that?

Mr Eric Endicott: I would suggest first of all that if you look at the current standard policy, there isn't any basis for understanding that either.

Mr Harnick: So you're pleased about that. You're going to make that a little worse.

Mr Endicott: I am not going to do anything. I should say that, like everything else, there will be a number of different forms of consumer information that will simplify and explain the nature of the benefits.

The reason the regulation is so complex is because it is attempting to deal with a number of special circumstances in a clearly defined way so that when people have disputes they actually understand what exactly their rights are. In fact, the philosophy of the regulation is precisely to see what people can get as opposed to a system where people do not know what they get, which is what the recovery is when it's in tort.

Mr Harnick: Terrific.

The Chair: Mr Owens.

Mr Harnick: I have one more very brief question.

The Chair: I'm sorry. Mr Owens.

Mr Owens: Thank you, Chair. I'll yield my time to Mr Ward.

Mr Ward: I'd like to thank you for coming out this morning and undertaking to give us a technical briefing as well as answer some very pertinent questions that are on the minds of the committee members here today.

I would like to focus a little on the costs of Bill 164 as well. But before I do, I think it's fair to say that our government has tried to strike a balance when it comes to the auto insurance system in Ontario, where there are adequate or decent benefits for victims of motor vehicle accidents as well as keeping a lid on the insurance premium costs that all drivers face. We think we've struck that balance with Bill 164.

Some of the questions have related to the differences of the perceived costs of Bill 164 in reference to the Mercer report, which the government commissioned in relation to Wyatt, as well as Coopers. My understanding is that the representative from Mercer did not really have a chance to peruse the Coopers report that State Farm had commissioned. That says in essence that costs may go up by 20% and makes other references to tourism etc. But the Wyatt study, which the Mercer representative has had a chance to review: Did it not also include a percentage that suggested the feeling that insurance premiums currently are undervalued or underpriced, and that they had written in a percentage of the overall cost to include that underpricing? Was that not part of their overall costing?

Mr Khury: If I may, I think you're talking about what the Wyatt report indicates is the current rate shortage, the inadequacy in the existing rates. We have tried to understand that because, first of all, in our study we made no such attempt to evaluate the current rate adequacy in the marketplace. Our effort was trying to understand why the absolute numbers of the Wyatt study were so much higher than ours.

We were able to trace a number of factors in that, and there are really two large ones that I'll share with you. One is the effect of the recession on insurance statistics. Our report fully reflected the anticipated effects of the recession on the rates of accidents. To the best of our knowledge, we cannot find an equivalent reflection, at least in terms of degree, of the effects of the recession in terms of the cost of insurance. In fact, since the time our report came out, additional insurance statistics have become available where the original judgement we had made on accident rates has been more than confirmed. It indicates, in fact, that we should have gone even deeper in recognizing the recession. So this is probably the largest single area.

The second-largest reason, we believe, for the inadequacy that Wyatt points to is the jumping-off point; that is, the level of loss cost that is assumed in the Wyatt study. These are the tort-based numbers from which Wyatt goes forward to create Bill 164 costs.

The Chair: Five minutes left.

Mr Khury: Those figures are substantially higher—the jumping-off point—than the figures that we have used, and it reflects fully the results of the most recent experience, which in fact includes some aberrations. There are some unusual things in the data which, frankly, we cannot explain, have been unable to explain. That is taken at full face. We have discounted that somewhat, a little bit.

So those are the two largest reasons. There are others. If you would like to take time on those right now, I'd be happy to get into them, but those are two of the larger issues.

Mr Ward: Mr Tully, the minister recently announced the creation of a task force to look at rehab and long-term care. I believe there are representatives from the industry and consumers on this task force. The intent is to look at cost control; in fact, maybe even to reduce the long-term costs. If this task force makes appropriate recommendations looking at costs, may not the 4.5% that Mercer has said Bill 164 may end up costing the insurance industry in fact be even lower, depending on what this task force finds?

Mr Tully: The role of that task force is to assess the need for and kinds of appropriate standards and guidelines to be put in place to, on the one hand, ensure that the seriously injured accident victim has access to all the rehabilitation services he requires for maximum restitution, and, at the same time, put in place controls that will effectively limit abuse of that kind of system and make sure that those costs are used where they have maximum value.

As we've gone through the discussion here, obviously one of the big areas of disagreement that exists between the Mercer people and the Wyatt people and others who have looked at potential costs is what will happen; not whether or not the cap is a good thing, because I think everyone would agree that adequate care for the long-term disabled is the objective, but ensuring that that is not something that has significant impact on the consumer, that there be a balance there.

1200

The task force has the objective of bridging the gap between what Mercer has assumed in its costing can be achieved in a reasonable environment and, I might say, what Wyatt has probably assumed, which is what might happen if we were in a situation which was abusive of access to those kinds of services. The task force will put in the kinds of standards and guidelines that will ensure that there is cost control, without using the artificial measure of the \$500,000 cap, which quite obviously was imbalanced or discriminatory towards the most seriously injured, who need that kind of—

Mr Ward: Finally, to the Mercer representatives, looking at the résumés included in the background, you're not fly-by-nighters. You have a wealth of experience in the insurance industry and costing. What's the difference between loss cost and premiums?

Mr Khury: I could define loss cost by example, which is easiest. At the end of a year, you take all the amounts that were paid for claims and you divide them by the number of cars on the road. That's the loss cost: cost per car. You take all the claims and you divide them by the number of cars.

The premium is what an insurance company would charge an individual for an individual automobile insured. Usually, there's a relationship between those two.

Mr Ward: Usually.

Mr Khury: Usually there's a relationship, because the price that is charged by an insurance company does not have to follow the actuarial indication. In fact, in my 25 years of experience, I can tell you categorically that generally the actuarial indication is a point that is used for an insurance company to arrive at its costs. Then business judgements get in, as

to what it is they're trying to accomplish by being in the marketplace. That includes: What are our competitors doing? What is our objective in the marketplace etc? There's a whole complex of business decisions that get in. So the loss cost is an abstract quantity. The premium is a business—

Mr Ward: Decision.

Mr Khury: A business decision, right.

Mr Ward: Mr Chairman, do I have any more time?

The Chair: Yes, you do, another five minutes. I was mistaken: You actually had 10 minutes.

Mr Ward: I thought, "Gee, I know I talk a lot, but not that much."

Again, to Mercer, I'd like to continue to focus on the cost of the actuarial study you conducted for the government. You mentioned, I believe in an answer or in your opening presentation, that you used some data from Quebec. Why did you include that data, or how did you use it?

Mr Khury: I'm just trying to frame the answer to this. Actually, I need to point out right away that by far and away the main source of data that were used in our study are Ontario data. It was part of our work to ask, what else is relevant that can be brought to the situation? What can be brought in from anywhere that can illuminate the answer to the question? Because, frankly, all of us are staring in the dark trying to bring a little candle to see what this might do. So first of all, the main source of data was Ontario-based. We looked at lots of jurisdictions, as I indicated earlier; one of them was Quebec.

So to get back to your specific question right now, one of the disadvantages of the general actuarial methodology in a situation like we have here, where you really don't have any statistics that are directly derived from a similar environment that you could impute to, you have to look at all you can get. So we used Ontario data to the maximum extent we can, then we looked at Quebec to see what elements of the Quebec experience can illuminate the answer we arrived at by just using Ontario experience.

There were three specific elements we used. I'd like to point to them. One, we used the Quebec experience to derive a table of disability durations: How long disabilities can be expected to last and how they are distributed because of auto injuries, because of auto accidents.

Second, we used a small element of Quebec's long-term trend for the income disability and medical and rehab data, because that is predominantly a first-party, no-fault system.

Finally, we incorporated some element of Quebec's loss experience itself, adjusted for Ontario demographics: wage scales and injury rates. Let me comment just a couple more sentences on this and I will stop.

The reason we used the Quebec disability duration table was that that's the only one we can find in North America that is done in a predominantly and pure no-fault environment. It was very helpful to us. May I quickly point out that that table was also one that Wyatt built on in conducting its study. That is a perfectly acceptable practice.

The second item, the use of long-term trends: The reason we did that is that when you look at the long-term trends of insurance in general and long-term trends in a pure no-fault environment, we have found in the Quebec experience that

there is a vast difference, over a long number of years, in what the rates of increase are. We tried to explain that difference. We reconciled some of it, but some part of it just remained unexplained. We therefore concluded that there must be something else that happens in the system when you go to a predominantly no-fault system, and we had to recognize some part of that. We took a small part of that trend and reflected it into our work.

The third and final element, the elements of Quebec's loss cost that we actually reflected: This is basically to try to overcome the advantage of building the Bill 164 costs based solely on tort-based data. There's a fundamental disadvantage but that's all that's available, so we used that to try to water down that disadvantage.

All of these together, if you take them all together, really do not change our answer to the point that it would blow it out of the water. It would make 1% or 2% difference in the answer.

The Chair: Time has run out. I'd like to thank you for appearing before the committee.

Mr Tilson: Before you thank them and ask them to leave, as Mr Tully was speaking, I wrote down approximately nine questions I had for him. My questions consisted of one two-part question to Mr Khury, and Mr Harnick asked a couple of questions in the same area. My point is, Mr Chairman, that the amount of time that's been allowed the committee to ask questions of clarification of the staff who have been preparing the regulations, the regulations alone, has been completely inadequate. I'm not critical of you; I know you're doing—

The Chair: Mr Tilson, is it possible that you can put this down on paper? The clerk will make sure that Mr Tully gets it, and all members of the committee.

Mr Tilson: Mr Chairman, I'm telling you orally that the process that has been devised is terrible. I don't know whether it's because insufficient time has been provided by the NDP. I suspect that's it.

Mr Paul Klopp (Huron): Mr Chair, if we could move on here—

Mr Tilson: Mr Chairman, my point is that surely this committee is prepared to allow more time to ask questions of particularly Mr Tully, who spoke for almost an hour, and very few questions have been directed to the many points Mr Tully has raised.

The Chair: Mr Tilson, in my record here it shows from 10 to 12. I know that in subcommittee it was thrown around that it would be 20 minutes for each caucus. It wasn't printed out. I had asked Mr Tully and his staff to shorten up so we had enough for question period. If you have more questions, address them to the clerk, who will address them to Mr Tully, and we will have those answers back, and any other questions you didn't think of today, and we'll put them through so you've got them back before we get into clause-by-clause.

Mr Tilson: Mr Chair, I'm not being critical of you, but that's not the way to run a committee. I'm just shocked that this is the process, that questions are being asked of this committee—

The Chair: Mr Owens.

Mr Owens: Mr Chair, I find it passing strange that once again—

Mr Tilson: Surely one's got the floor—

The Chair: One at a time. I've got two ears but—

Mr Owens: Just a second. I have the floor.

Mr Tilson: No, you don't have the floor.

Mr Owens: Excuse me; the Chair recognized me.

The Chair: I'm going to recognize Mr Owens for a comeback.

Mr Tilson: A comeback? I haven't finished.

The Chair: I thought you were done.

Mr Dadamo: How much time do you want, David?

Mr Tilson: I'm simply saying that I want to be able to ask these people more than one question. Mr Harnick asked about half a question.

Mr Dadamo: Then that's it. Get to the point.

Mr Phillips: Can they come back?

The Chair: Let's see what we've got on our schedule: a subcommittee at 4 o'clock. Let's discuss it then. I know these people are looking to go for lunch also, just like the rest of the members of the committee. I'd like to thank you for coming, and possibly you'll get a written invitation to come back again. Thank you.

We're recessed until 1 o'clock sharp.

The committee recessed at 1209.

AFTERNOON SITTING

The committee resumed at 1301.

The Chair: Okay, could everybody take their seats please, it being 1 o'clock. We're discussing Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters. This afternoon we'll start off with the Honourable Brian Charlton, Minister of Financial Institutions. He'll be on for one half-hour, from 1 to 1:30. At 1:30 Mr Remo Mancini will have from 1:30 to 1:40 and 1:40 to 1:50 will be David Tilson. Those are the subcommittee members, but anyone else in their caucus can ask questions. We'll have a 10-minute recess, and at 2 o'clock the Insurance Bureau of Canada will be coming on. We're going to try to keep on schedule. We're on schedule now. Mr Minister, the floor is yours.

HON BRIAN A. CHARLTON

Hon Brian A. Charlton (Minister of Financial Institutions): Thank you very much, Mr Chair. It's good to be here. I guess I'd like to welcome all of you to the opening of public hearings on the Insurance Statute Law Amendment Act, 1993, the government's auto insurance reform legislation. I have a few initial comments that I hope will give some context to these discussions.

First, some general thoughts about Bill 164, how it was developed and what we believe it will achieve. More detailed background on the work that led to the proposed legislation is outlined in a booklet I released a couple of weeks ago. It's called *Considerations in Reforming Accident Compensation: Toward a Fair and Balanced Automobile Insurance System*.

The problems Bill 164 addresses go back a long way in this province. They won't all disappear overnight. Neither are there perfect solutions in an imperfect world. That said, Bill 164 is a huge step in the right direction. It will deliver major, immediate improvements, and it also provides continuing reform.

Bill 164 will give Ontario motorists fairer, more accessible, more comprehensive auto insurance, and at affordable rates. Simply put, the reforms I have put forward will mean better insurance coverage for everyone. In fact, these reforms will provide the best auto insurance currently possible.

No system can please all of the critics because the ends of the spectrum are just too far apart for that. There are some who believe that we should go back to the old uncontrolled litigation days. That would be a disaster for both consumers and accident victims. Earlier this month, we released an efficiency comparison of various insurance systems. That study estimated that under a pure tort-based system less than 70% of total claims dollars would end up in the pockets of the claimant. Under a pure no-fault system, this figure increases to over 90%.

Unrestricted access to the courts contributed to spiralling premiums in the 1980s. Ontarians can't afford that again. Our actuaries estimate that the old tort system would cost consumers 23% more on the average policy, about \$200, than what is proposed in Bill 164, and that's with only token accident benefits. In a litigation system, settlements can take years. Sometimes victims get nothing, and too much of the

premium dollar goes to support the legal system rather than helping people injured in accidents.

The government itself has had to accept some compromise between the ideal and the feasible. Our first choice was a publicly owned insurance system. We still believe in public auto, but the startup cost, in both jobs and dollars, carried too high a pricetag in a depressed economy.

What we are proposing to do through Bill 164 is eliminate the injustices of the OMPP within the existing private delivery system. We believe that unacceptable compromises were made in the development of the OMPP, compromises at the expense of injured accident victims. Fairness and equity were sacrificed to provide insurer profitability and temporary premium relief.

Some aspects of that system were laudable, but it is now clear to us that the structure of the OMPP is not capable of providing a fair, equitable and affordable insurance system. It's not simply a matter of minor adjustments to the accident benefit schedule or the fine-tuning of the threshold; changes of this kind would have far-reaching cost implications.

We went back to the drawing board and found ways to address many of the outstanding inadequacies of the OMPP and to honour our commitment to fair, accessible and affordable insurance. Our reforms to personal injury compensation involved making choices between conflicting values. The new plan proposed in Bill 164 reflects compromises between the objectives of the court-based system and those of the no-fault approach. I believe that we have successfully reconciled the competing objectives by drawing on the best features and important values of the structured benefit and tort systems.

Overall, when the facts of Bill 164 are laid out, we find support for its balanced approach, but that hasn't stemmed the public debate, even though most drivers may not understand what all the fuss is about. People usually don't become aware of the need for insurance reform until they've had an accident. Then they find that they're left out, that they won't get the help they need for economic, physical or psychological recovery. By then, of course, it's too late. Many of the stories I've heard like this are extremely tragic.

Reforms are necessary. Most of us in Ontario rely on automobiles in our daily lives. Auto insurance is a normal part of this reliance. Few of us could afford the economic aftermath of an accident without it. Compulsory auto insurance protects us if we are victims of auto accidents. That's as it should be. But when government delivers a captive consumer to the private sector and when the potential risks of that transaction are catastrophic, government has an obligation to protect that consumer.

Claims costs soared through the 1980s, resulting in a decade of spiralling premium prices. For many drivers, coverage was hard to get at any price. Wide access to a costly and inefficient adversarial court system added to the costs, but didn't deliver fair or universal compensation in return.

The Liberal government responded with the Ontario motorist protection plan, and that's the system motorists are burdened with today, a no-fault plan which provides inadequate accident benefits to those most seriously injured and

insufficient recognition of the suffering of those not at fault in traffic accidents.

About the only good thing to be said about the OMPP is that it temporarily curbed the rate of premium escalation that characterized the 1980s. But it was a shortsighted, stopgap solution to soaring insurance prices. Consumers may have saved something on their insurance premiums, but they have paid dearly in other ways. Insurers enjoyed a \$1-billion turnaround in profits while huge gaps remained in the OMPP. Worst of all, the insurers are now telling us that the OMPP provided only a one-time fix to soaring prices. They say they still need double-digit increases in premiums just to keep pace with OMPP costs.

The scheme simply ignores the insurance needs of many people. It severely limits court access for many with serious injuries. Accident benefits are inadequate and too often fall short of required income protection. Price stability was a fleeting phenomenon. The OMPP provides only limited recognition of the special circumstances of the recently unemployed, students, care givers and the self-employed.

Benefits are not indexed. As a result, people with long-term injuries see month-to-month erosion of compensation that wasn't enough to begin with. Unrealistic caps on rehabilitation and long-term care mean permanently disabled people may not get the benefits they need.

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The ability to recover for pain and suffering through the tort system is very limited, discriminatory and uncertain. One court has held that only near-catastrophic injuries qualify. The OMPP unfairly prohibits suing for psychological injuries, no matter how devastating. Only serious permanent physical injuries are recognized for purposes of tort compensation. The result is that the OMPP threshold denies access to suing to an estimated 94%—and some would say even greater than that—of those who had the right to sue before the OMPP.

All of that sounds like bargain basement coverage, but consumers aren't paying bargain basement prices. In fact, this minimal coverage is often unjustifiably expensive. Too many drivers have been unfairly and arbitrarily placed in the Facility Association.

Discriminatory rate classifications do not place sufficient weight on actual driving performance. Making matters worse, there's little consistency among dozens of classification systems, so drivers have difficulty shopping around for the best price available.

Overall, the system is not consumer-friendly. In addition to the confusing classification systems, drivers don't get the simple consumer information that they need, and there is little help for consumers attempting to resolve disputes. The OMPP paid only lipservice to safety, and didn't promote industry investment in safety either. The OMPP has not provided the answers it promised.

Bill 164 offers a welcome alternative. It's an innovative approach that will achieve the goal of ready access to fair and reasonable compensation for everyone, along with special recognition of pain and suffering of those who are seriously injured as a result of the negligence of others.

The new plan combines the best features of structured, automatic accident benefits and court-based compensation.

It's a unique model which draws on the best of both systems, and at an affordable price.

The improved automatic accident benefits are the most generous and equitable in Canada and they eliminate the need to sue for economic losses. Access to the courts will be reserved for non-economic losses, which courts are best able to assess. Everyone stands to gain from these improvements which are designed to close the gaps in the OMPP and guarantee enhanced protection for all accident victims.

The motor vehicle is an essential part of our way of life in Ontario. A momentary lapse in judgement or attention can have catastrophic results. Auto insurance is compulsory and all drivers pay premiums as a mechanism of sharing significant financial risks. In such a system there is an obligation on government to look after the economic needs of anyone who might be injured in a motor vehicle accident, regardless of fault.

We are convinced that where compensation for fundamental economic losses is concerned, structured accident benefits provide the most compassionate and equitable response.

Automatic benefits provide reliable and equitable recovery for economic losses, unlike the court-based system, which involves high costs and lengthy delays. Compensation through the tort system is uncertain, dependent upon many things like the skill of the accident victim's lawyer, the adequacy of the other party's liability coverage and difficult assumptions which must be made about the future in determining a tort award. This can result in overcompensation for the few successful tort claimants and undercompensation for far too many others, inequities which are simply unacceptable.

Early access to compensation means that rehabilitation and recovery can begin immediately. This allows injured persons to return more quickly to productive and full lives. This in turn contains costs.

Structured benefits also mean that compensation is fair. Everyone's economic loss is compensated on the same basis.

Let me highlight some of the accident benefit improvements we are proposing:

- Income replacement benefits will be indexed to inflation.
- The ceiling on income replacement benefits will increase from the present \$600 a week to \$1,000 a week.
- We are eliminating the lifetime caps on attendant care, rehabilitation and supplementary medical care expenses.
- Death and funeral benefits for spouses of deceased accident victims will be improved.
- For the first time, the earning potential of persons not yet in the labour force or temporarily outside it will be recognized, and that's especially important for students, care givers and the unemployed.
- The plan also will better recognize the special income situations of the self-employed.

— Injured students will receive lump-sum payments and, in the event of a permanent debilitating injury, an indexed weekly benefit for life. Those temporarily not employed at the time of the accident—care givers who intend to return to the workforce, for example—will receive an indexed income replacement benefit based on their employment history.

— People who are self-employed will be able to purchase pre-determined income replacement to meet their special needs. As well, rules of determining income will be clarified.

Indexation of benefits and removal of caps on medical and rehabilitation expenses will better address the long-term needs of those with serious injuries by protecting against the erosion of their benefits over time. People with disabilities as a result of an auto accident will have appropriate access to attendant care benefits and rehabilitation services for life.

In the event of a fatality, a surviving spouse will receive a death benefit up to eight times higher than the current OMPP benefit, up to \$200,000. Where there is no surviving spouse, surviving dependants will share the additional award. The funeral expense benefit doubles to a maximum of \$6,000, up from \$3,000 under the OMPP.

Under Bill 164, 97% of full-time wage earners will receive income benefits that cover their loss of income as compared with only 73% of full-time wage earners covered under OMPP.

Just as important as Bill 164's accident benefit provisions is its wider recognition of fault and recovery for pain and suffering by those seriously injured in auto accidents as the result of the negligence of others.

Pain and suffering are individual, intangible and difficult to define. Since such losses vary considerably from one person to the next, they are not well suited to compensation based on a fixed schedule of benefits. The more appropriate forum for addressing these special losses is the court system, which has well-established principles for determining fault, assessing pain and suffering and providing guidance in settling claims. And where the settlement process fails, people deserve their day in court.

Our reforms widen recognition of fault for those situations in which courts can best provide fair compensation. Under Bill 164, people who are seriously injured and can prove someone else was at least partly at fault will have the opportunity to sue for the appropriate compensation for their pain and suffering.

At the same time, less serious claims should be discouraged in the interests of an affordable, efficient insurance system. The OMPP's cumbersome and highly restrictive verbal threshold will be replaced by a \$15,000 deductible. This deductible will result in consistent interpretation that doesn't differentiate between types of injury, including those due to psychological injuries, as has been the case with the OMPP.

Although access to the courts will be available, we expect most cases to settle through negotiation. There will be no need to argue over whether the injury meets a defined threshold. This change will allow three times as many people to recover damages, more than 15,000 annually as compared with 5,000 under OMPP. Reserving court action for assessment of significant non-economic loss will keep more money in the system to pay for enhanced benefits for everyone.

As I indicated earlier, we are not attempting an overnight fix for the complex and long-standing problems of auto insurance in Ontario. Some improvements will be swift—enhanced accident benefits, for example. Other ongoing reforms will be carefully phased in to maintain market stability.

Continuing improvements will come, in part, from the regulatory change that will be provided for in Bill 164. Others will result from government working with the insurance industry and other interest groups in support of positive action to meet consumer needs.

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We were pleased to announce just last week the appointment of a task force to develop standards for cost control of rehabilitation in long-term care. The work of this task force will be to ensure predictability and certainty in the setting of premium rates by recommending standards which are sensitive to both the concerns about costs and the need for appropriate rehabilitation services.

The task force includes representatives of the insurance companies, consumers, rehabilitation specialists, accident victims and the government. It is an initiative which demonstrates our commitment to a consultative process in finalizing and implementing our reforms.

The government plans to encourage a number of specific improvements beyond those specifically legislated through Bill 164. These improvements include enhanced consumer service; clearer, customer-friendly language in insurance policies and consumer information; development of consumer-advocacy mechanisms; a support system to help people involved in disputes with insurers and new rules to protect claimants in such disputes.

The government will also insist on uniform, non-discriminatory classifications of drivers for premium-rating purposes. Not only are there too many classification systems now; they promote discriminatory treatment based on age, sex and marital status. As well, consumers can't compare products based on varying definitions and rating factors. The resulting confusion encourages arbitrary rate setting.

Working with the industry, we will introduce a new system that will remove age, sex and marital status as rate-setting criteria. Instead, it will promote common, clear definitions and universal rating factors that emphasize driver experience and driver behaviour. Increased risk to the system should be recognized through higher premiums, but such penalties must be based on driver conduct, rather than characteristics like age or gender.

Reasonably priced insurance must also become more widely accessible. In the past thousands of good drivers have been forced to pay high rates in the Facility Association, and unfair classifications have had a lot to do with that.

Facility Association reached a peak of 267,000, 8% of all policies, up from 2% in 1987. Intended as an insurer of last resort, Facility became Ontario's largest insurer when you measure it by premiums. We are working closely with the industry to depopulate the Facility Association. Insurers recognize that the FA is often unfair. In cooperation with government, the industry began more than a year ago to reduce the number of drivers assigned to Facility. More than 60,000 policies have been removed.

But the process has to be accelerated. Our goal is to see that every good driver in Ontario is removed from the FA and has access to auto insurance at market rates. After extensive consultation, new rules have been implemented by the industry. As a result, we expect more than half of all drivers currently assigned to the FA to be able to return to the regular market. At the same time, the industry has developed a new risk-pooling mechanism to ensure that the normal market is able to deal with higher risks that don't meet the new FA guidelines.

Road safety and accident prevention is another priority of our reform program. Far too many people are being injured

in auto accidents. Accidents now cost taxpayers about \$4 billion a year. Where insurance is concerned, the high level of accidents leads directly to high claims costs and to high premiums.

Our reform strategy will link automobile insurance with road safety in order to save lives and reduce costs. The Minister of Transportation tabled a bill last June to establish the Ontario Road Safety Corp. The corporation will develop new incentives for safe driving, promote safety education and driver improvement programs, coordinate public education and safety campaigns, and encourage partnerships and information linkages with the private sector and other groups.

In closing, I'd like to take a few moments to address the issue of price and, in particular, criticisms that warn of major premium increases resulting from auto insurance reforms. We have not been impressed with the calibre of research. The most recent of these, the Wyatt study for the Insurance Bureau of Canada, does nothing to change my view that significant premium increases will not result from our reforms.

Cost estimates of an insurance product are necessarily based on speculation about the future. We have not had much experience with the costs of no-fault in Ontario, and therefore it's pretty easy to find room for debate. I believe the IBC report distorts the impact of the proposed reforms with assumptions that particularly skew the results, including high rates of disability duration and unreasonable projections regarding additional medical and rehabilitation costs and the costs of renovations.

Based on examination of jurisdictions with considerable experience with no-fault auto insurance benefits, our actuaries have a different view. The fact is that Bill 164 will mean better insurance coverage without forcing significant additional costs on consumers. The unprecedented profit performance of the past two years indicates to me that the insurance companies are well positioned to deal with the additional costs of these reforms.

We have designed the reforms to achieve a balance: cost savings in administration and in other areas to allow benefit improvements. On the other hand, the path proposed by many critics of Bill 164 would result in substantial premium increases. The Bill 164 reform package strikes the right balance between fair and reasonable benefits for accident victims and affordable premiums for consumers. We are committed to both fairness and affordability.

We've consulted with representatives of the industry, lawyers, consumers and advocates for accident victims. We've proposed appropriate changes to the bill and its regulations as a result of those consultations.

The public hearings and committee reviews we begin today continue the consultation process, and the government will continue to refine its reform program in keeping with any worthwhile and workable suggestions brought forward.

The reforms proposed in Bill 164 will:

- Introduce enriched benefits, at an affordable price, for everyone injured in automobile accidents.
- Expand access to the courts for accident victims seeking compensation for their pain and suffering.
- Ensure affordable and stable premiums.
- Enable the implementation of a non-discriminatory, industry-wide system for classifying drivers.
- Guarantee wider access to insurance coverage.

Mr Kwinter: Minister, I noticed on page 2 that you say, "Our first choice was a publicly owned insurance system."

Mr Mancini: Mr Chairman, what are we doing?

The Chair: I'm sorry, but he put his hand up earlier.

Mr Mancini: No, I want to know the procedure here. What are we doing at this moment?

The Chair: Responses.

Mr Mancini: You mean this is part of my critic's time, the 10 minutes?

The Chair: Yes, it is. Okay? It's between your caucus. Tell Mr Kwinter that you want the time.

Mr Tilson: The clocks are running too.

The Chair: Yes. It's up to you. You've got 10 minutes to share.

Mr Kwinter: Go ahead.

Mr Mancini: I am pleased to have the opportunity to present the views of the Liberal caucus on Bill 164, a bill that will raise the costs of car insurance for the average person in Ontario, a point the minister tries to downplay at every turn. This bill will thoroughly and unnecessarily disrupt the insurance industry. It is yet another NDP anti-business initiative. This bill continues to expose the NDP bias against the private insurance sector, and the end result will be increased rates for Ontario's drivers.

In the mid-1980s, rising insurance claims led to rapidly escalating car insurance costs in Ontario. People were upset about high insurance rates. They called Queen's Park, and the Liberal government listened to their concerns and responded with necessary action. The NDP members opposite will recall that Bob Rae opposed the Liberal government's action to protect people from higher rates. The NDP made outrageous promises and has broken every one of them since the election. Bob Rae's response to any broken promise is to say, "Well, that was then and this is now."

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None the less, the Liberal government passed the Ontario motorist protection plan. This plan brought greater fairness and stability to the marketplace and ensured the best possible protection for consumers at the best possible price. It kept auto insurance rates affordable and struck a balance between comprehensive protection for insured victims and keeping costs down. This progressive reform undertaken by the Liberal government of the day preserved fair access to the courts by allowing injured accident victims to sue for loss of income, something the minister has taken away. This Liberal legislation is fair and has stood the test of time.

The NDP ran an election campaign on the promise to create a government-owned automobile insurance system, but the NDP forgot to tell the people of Ontario during the 1990 election that it was going to cost nearly \$2 billion for the government to take over the insurance industry and that more than 12,000 jobs would be disrupted.

Mr Owens: You forgot to tell the people—

Mr Mancini: Maybe your job is not disrupted at the present time, Mr Owens, but there's the possibility that many thousands of people will have their jobs disrupted.

The Chair: Mr Owens, you'll have your chance later on.

Mr Mancini: Thank you, Mr Chairman. After the election, Bob Rae, the man of broken promises, dropped the idea of government-owned auto insurance, a cornerstone of the NDP election platform. He said it would cost too much money and too many jobs. Guess what? Studies conducted by the previous Liberal government had already come to that conclusion about government-owned automobile insurance. By backing away from his promise, by flip-flopping on automobile insurance, Bob Rae and his government started, and continue, a trend of broken promises.

Bob Rae and the NDP, in order to save political face, have introduced Bill 164. This bill is a complete reversal of everything the minister and the NDP stood for. But who needs a place to stand when you don't know what you stand for? Far from restoring the right to sue, which the—

[Interruption]

Mr Mancini: Mr Chairman, can we have order?

The Chair: Yes. If you want to make comments, I'll ask you to be removed from the room.

Mr Kormos: I didn't mind the interruption.

Mr Mancini: Far from restoring the full right to sue, which the NDP promised, this bill will actually eliminate the right of accident victims to sue for loss of income, a point the minister just sloughs off. This bill will cause insurance costs and rates to go up, perhaps as high as 20%, Mr Minister, or more than \$200 per vehicle. This, by the way, is the opposite of what the minister promised when he first introduced the bill in December 1991. Who knows what the minister will say tomorrow, the next day or the next? The NDP just wants to be able to say that it has done something about auto insurance. Well, they are doing something; they are raising your insurance rates.

As you know, I have been a member of this assembly for more than 17 years, and in that time I've seen many members come and go. I've learned to respect those who believed in what they said, like Mel Swart, who served in this assembly for more than 13 years. Mr Swart, the NDP member for Welland-Thorold, was a hard-working, dedicated member and an advocate of government-owned auto insurance. His commitment to that issue has never wavered. While I respect Mr Swart for his honesty, I don't agree with his ideas or policy. However, with Mel Swart what you see is what you get. Unfortunately, this is no longer the case with Bob Rae and the NDP. What you see today is not what you get tomorrow. That's the problem. No one knows where the NDP stands on this issue or many others.

With auto insurance, the NDP is changing a system that doesn't need to be changed and wasting precious resources in the process. It is causing further disruption to consumers and providers and is forcing the entire industry to retool for the second time in three years. That costs money, Mr Minister, and these costs will be passed on to the consumer, thanks to your legislation.

Do you remember what the NDP did in its first budget? They imposed a 3% tax on all auto insurance rates. With this tax, they made every consumer pay more for their insurance rates while at the same time saying that rates should go down. What hypocrisy. Average people in Windsor, Kingston,

Ottawa, Sudbury and elsewhere in Ontario can't afford to pay more for their insurance. They are already paying enough.

This bill and its accompanying regulations will cause car insurance rates to increase. There's no doubt about that. Even the government's own study proves that. The only question left is by how much.

The minister says the rates will go up 4% or 5%. Others say the rates are going to go up significantly higher, and I remind the minister that when he introduced the bill, he said this would not cause rates to go up at all. That's what the minister said at the time. Now it's only 4% or 5%, maybe.

The government study is based on unrealistic and flawed assumptions. It relies on data from Quebec which doesn't work in Ontario, and it assumes the existence of road safety initiatives which aren't in place yet. This report, I say to the minister, is baloney.

The minister should review the three other actuarial reports that have been prepared right here in Ontario. They clearly show the possibility of insurance rates rising by between 12% and 20%. This could mean an increase of up to \$200 per vehicle per year, money that people just don't have. Average people in Ontario simply can't pay more. Maybe NDP ministers can pay more, but the average person cannot.

The Liberal party is also concerned because the regulations that accompany this bill are so complex that one will need to hire a Philadelphia lawyer to figure out exactly what they're entitled to.

Mr Kormos: Would you settle for a Welland lawyer?

Interjections.

Mr Mancini: Even the lawyers from Welland can't understand the legislation.

Mr Kormos: We've got some good lawyers down there, Remo.

Mr Mancini: The NDP government has taken the 18-page, user-friendly regulations approved by the past government and you've turned it into an incomprehensible 68-page document which is a bureaucrat's dream and a consumer's nightmare. The NDP is creating a new Workers' Compensation Board.

If this government is really determined to reduce insurance costs, it should stop messing up the insurance system and make a genuine effort towards road safety. Despite all its rhetoric, this government has done nothing to promote road safety.

Liberals believe this is bad legislation. It will drive up insurance costs. It will eliminate the right to sue for economic loss. It will needlessly disrupt the insurance industry. It is another NDP anti-business initiative.

We cannot support Bill 164. The NDP government made a mistake in promising government-owned auto insurance, and this bill, Bill 164, is another mistake. Average people across Ontario and accident victims will be forced to pay for these NDP mistakes.

We here in Ontario are in the middle of a long and devastating recession. We have record unemployment, record plant closures, record disinvestment, record deficits. With all these major issues the NDP government is facing, what does it turn its attention to? The insurance industry. Why? For ideological reasons. And the result? Increased costs of up to \$200, taken out of the Ontario family's already tight budget.

Let me put these costs in perspective. In the recent past, the government has said it had no money to give to hospitals because taxpayers couldn't pay any more.

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The Chair: Is it very short?

Mr Mancini: It's very short, but very important.

The Chair: Okay.

Mr Mancini: The government said it had no money to give to hospitals because taxpayers couldn't pay any more. If the government is correct and insurance rates only go up by the minister's assumption of 4% or 5%, that means Ontario drivers will pay \$158 million per year more for insurance, while the last time hospitals got any money, all of the hospitals in Ontario only got \$140 million.

I say to the government, where are your priorities? Get in touch with the real world. This legislation deserves to be withdrawn.

The Chair: Okay; Mr Tilson.

Mr Tilson: I have a few comments to make as critic for the Progressive Conservative Party. I guess the good news about being here this afternoon and at these hearings is that we're not throwing a bon voyage party for the 25,000 jobs, since the government backed away from its plans for the nationalization of the insurance industry. The bad news is that what we're here for amounts to a promise from this government to take control in the future. Bill 164 is bad legislation. I can put it simply no simpler. This legislation serves no purpose other than for this government to cover its collective political behind for failing to live up to its promise to nationalize the industry.

What is amazing about this government's approach to this legislation is its virtual admission that it does not have any real policy motive for introducing it and that the only reason it is here at all is political. The minister as much as admitted it last June when he was required by law to table an adequacy report on the performance of the existing legislation.

That report was all of one page long and consisted of four paragraphs. In this, the minister claimed that "after extensive consultation, we determined that the schedule must be amended to correct its significant deficiencies," but he did not say whom he had consulted with and he didn't say what those deficiencies were. From what we heard this morning from the administrative staff, I have to wonder whether he bothered at all to consult with anyone other than his political staff or if indeed he knew what the deficiencies were.

Over the past two weeks before this committee began, examination of this bill has commenced. We have been subject to a virtual orgy of action by the minister's office as he attempts to deflect criticism of the bill. He released, first of all, a thesis on insurance which attempts to make a case for change. Secondly, he released an actuarial study which demonstrates absolutely nothing related to this proposal. Thirdly, he proposed amendments to the bill which temper one of the peripheral issues associated with his proposals. Fourthly, the remaining regulations were presented, which demonstrate only the extent to which this legislation will confuse the issue. Finally, he has announced the formation of a task force to discuss the rehabilitation and long-term care benefits.

I have to wonder, when this legislation was introduced over 13 months ago, why all of this activity has occurred only within the last two weeks other than to try and deflect attention away from the examination of the legislation which we are about to undertake.

When the Liberal government introduced the Ontario motorist protection plan, we felt that it too was bad legislation. The reason we felt this was that it sought to change our system of insurance—which we did not agree with, although others did. It was and is our argument that legislation needlessly deprived consumers of their full legal rights and fell far short of meeting the needs of innocent accident victims. We believe that some of the evidence this committee will hear will demonstrate the specific aspects of OMPP which may be improved upon.

Bill 164, on the other hand, is bad because it is unnecessary and malicious. It claims to improve upon the existing legislation, but that is not true, as I'm sure we will hear from many of our witnesses. The real fact of the matter, which I am confident will be borne out by the testimony of our witnesses, is that this legislation has no support whatsoever. Over the past two weeks, we've seen a flurry of activity from the minister's office as they try to justify their actions. This hasn't worked. We don't buy it and neither does the public.

I'd like to take just a few moments to go over some of the highlights of the bill. I will start with the area which is of most interest to consumers, and that is rates. The minister started off with a claim which he was slow to relinquish, that rates under his plan would go down. Four different reports have since come out to prove him wrong, including one commissioned by the ministry itself. The only difference between the studies is the amount by which the rates will increase. The report commissioned by the government from Mercer, which we heard some comment on this morning, to no surprise shows the lowest level of rate increase, although I must say that some of the assumptions employed by Mercer are highly questionable and do not, I think, fairly represent the current state of either the industry or this legislation.

I'd like to give the committee one example. Mercer assumes that the road safety initiatives promised by this government will result in a 5% decline in accidents, but the government has not even told us what these initiatives will take, let alone introduced them. How can anyone extrapolate from that vague promise a 5% decline in motor vehicle accidents? I don't know.

To add insult to injury, Mercer does not consider the fact that such a decline in accidents would have a beneficial effect on any insurance system, not just under Bill 164. A move to graduated licensing, which is an issue my caucus has been encouraging this government to act upon, would be as effective in reducing costs under OMPP as it would under Bill 164, a fact which Mercer neglects to mention.

The level by which rates will increase varies by reports, as we have seen. The report completed by the Wyatt Co for the Insurance Bureau of Canada calculates a double-digit increase between the current and the proposed schemes. Regardless of how you cut it, no matter which report you look at, rates are going up, and they're going up a lot.

The NDP seems to feel that it can do the same thing to the private sector that it has done to the public sector, and that's

drive it into bankruptcy. I have tried to understand this, but I'm afraid I simply cannot. How do you offer more product for less money? It doesn't make any sense. I spent some time with the representatives from Mercer on that this morning.

Bill 164 proposes to remove a number of caps on costs and it also provides indexation for a number of benefits. Now I can understand these amendments, but what I don't understand is that the claim from costs will only be moderately effective. Where do these ideas come from? Perhaps in the testimony that's going to be given to this committee we'll hear from that, but I must confess it's just voodoo. If the minister thinks he can force the industry to increase the benefits under auto insurance while at the same time decreasing costs, he's dreaming, and he's dreaming in Technicolor. Just ask Floyd.

The minister also makes the claim that more individuals will be able to seek compensation from the courts under this scheme, and while this may in part be true in pure numbers, it's really an example of manipulating the public. Under OMPP, with the threshold so ambiguous that it will take years for innocent accident victims to actually receive adequate compensation, those who pass the test are at least allowed to sue for future economic loss, and this is the most significant loss the people of Ontario are being put to. Bill 164 removes this ability while allowing people to sue only for pain and suffering and then withdraws, on top of that, the first \$15,000 of that claim.

Interjections.

The Chair: I can't hear the speaker.

Mr Mancini: Throw Mr Owens out. He's been interjecting all afternoon.

The Chair: Go ahead, Mr Tilson.

Mr Tilson: Even the lawyers, whom I hear talking in the background, will agree that the deductible you have implemented in this legislation is fictitious. The judges will quite quickly and simply top off the value of awards by the level of the deductible, so that costs will not decrease for the involved parties and the only effect will be to needlessly discourage innocent accident victims from seeking their full rights under the law. I would even venture that with time, the courts will increase the size of pain and suffering awards to accommodate the removal of economic loss. This serves no one.

This bill does create more work for the lawyers; it certainly does. With the regulations, someone's got to explain all this to people. That's not necessarily to the benefit of the public. As my Liberal counterpart has indicated, under the existing legislation there are 18 pages of regulations. This is an acceptable number for many members of the public to understand, and this is being replaced by 67 pages of confusion which I challenge anyone to understand.

Under the amendments being proposed by Bill 164, it will be necessary—

The Chair: Mr Tilson, can you wind it up there?

Mr Tilson: Yes, I'm very close.

The Chair: I'll give it one minute.

Mr Tilson: Thank you, Mr Chairman. If I keep getting interrupted, I won't have that.

The Chair: That's extra time I gave you.

Mr Tilson: Under the amendments being proposed by Bill 164, it will be necessary for all accident victims to retain a lawyer just to determine what they are supposed to receive under the system. More work for the lawyers, but not of the sort that anyone, themselves included, actually needs.

Last week one of the legal groups that has an interest in this issue released a new proposal for an add-on portion of insurance which would have a tort base. I look forward to hearing the response of the minister to this proposal.

I also look forward to further discussion of this proposal to determine if it really would be of benefit to Ontario consumers. The recession, which has decimated the employment ranks of Ontario, is, according to Statistics Canada, over, but this government seems intent on continuing to erode the economic base of Ontario. In particular, the relevant sections of this bill will effectively destroy the reinsurance market in Ontario. The companies that rely on that market are not the large US patent firms, they are the small Canadian firms. To what purpose?

When OMPP was first introduced, we fought against it, as did this government that's sitting before us. While we still believe that OMPP is flawed, we do not see the purpose in revamping a system which appears to be working and which no one appears to want. We believe that the current system can be amended to better serve the interests of the consumer, but we don't believe that it's necessary to throw out the baby with the bath water. If this piece of legislation is allowed to pass this committee, we'll then have three different schemes of automobile insurance before the courts—pre-OMPP, OMPP and Bill 164—and neither the consumer, the courts, the lawyers nor the industry needs this confusion.

The misdirection of this legislation is being recognized not only by this province but also by insurers outside of Ontario. US insurers have been warned that their existing policies will not provide coverage sufficient enough to protect their clients while travelling in Ontario. As a result, US tourists may be forced to seek additional insurance just to visit Ontario. This does not mean a boom for insurers, this means a bust for the Ontario industry.

The Liberal government foisted—

The Chair: Mr Tilson, I'm sorry. I'm glad you're not paying me, because one minute—it's a long minute. Perhaps you can make some of your comments in some of the questions coming up. We've got the Insurance Bureau of Canada coming. I know Mr Mancini had about 12 minutes, you've had about 12 minutes and I think I've been overly fair. You know, another thing—

Mr Tilson: Mr Chair, when we originally set these meetings, we were allowed more than that. Somehow the time is being shortened considerably.

The Chair: No, I remember I read it out before we went for lunch and I read it out after lunch, so everybody knew exactly what the time frame was. We recess now until 2 o'clock.

The committee recessed at 1354 and resumed at 1401.

INSURANCE BUREAU OF CANADA

The Chair: Would everybody take their seats. Insurance Bureau of Canada, come forward please. I'd like to welcome you to the standing committee on finance and economic affairs. Today we're taking witnesses on Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters.

For the purposes of Hansard, before you begin, if you would identify yourselves, and the clerk will be coming down with a piece of paper to put in front of you so all committee members will know who you are when they come and ask questions later on. It's easier for Hansard also. We have until 2:30. If you can, leave some time for the committee members to ask questions on your brief. If you go 30 minutes, committee members don't have a chance to ask some very important questions.

We'll be starting off with the Conservative Party, then the government and then the Liberals, and we'll keep rotating throughout the rest of the day. We'll start off the next one with the government and go around like that. The time will be equally divided, what's left up until 2:30. You may begin.

Mr Stan Griffin: Good afternoon. My name is Stan Griffin. I'm vice-president for Ontario at the Insurance Bureau of Canada. Thank you for the opportunity to appear before this committee. With me is Brigid Murphy, who's senior vice-president, underwriting, at Guardian Insurance Co, who is here today as a member of the Ontario Auto Insurance Coalition. Also with me is George Cooke, who is president and chief executive officer of Dominion of Canada Insurance Co and is here today as a director of the Insurance Bureau of Canada.

IBC is the major industry association for property and casualty insurers in Canada. More than 80% of all private general insurance business written in Canada is done so by our members. IBC's primary mandate is to represent the interests of its member companies to governments and the insuring public.

Canada's property and casualty insurance industry currently employs about 118,000 people, of whom 47,500, or 40%, work in Ontario. Total industry employment is split about evenly between insurance companies on the one hand and independent agents, brokers and adjusters on the other hand.

Total assets for our industry in Canada were approximately \$32 billion in 1991. Current industry investment in the province of Ontario is about \$9 billion. In 1991 total premium income in Canada was \$14.5 billion, of which \$7.3 billion came from business in Ontario. Auto insurance in this province represents 60% of that \$7.2 billion.

Through Bill 68, the Ontario motorist protection plan was introduced to this province just two and a half years ago following extensive public review. It has worked well. In general, consumer satisfaction is high. However, the industry has recognized some deficiencies in OMPP and has recommended to government improvements to OMPP. We believe that the fundamental structure of OMPP provides a more stable and predictable pricing environment than that currently proposed in Bill 164.

Bill 68 required a review of OMPP at the two-year period following OMPP introduction. This was to have included a review of cost control, particularly in rehabilitation services, to ensure not only fairness of benefits available but

also continued affordability. If appropriate cost controls were in place, this might have allowed for the removal of monetary caps on rehabilitation and medical services currently in the regulation.

These hearings, however, are intended to review the government's proposals to change the auto insurance system in Ontario as set out in *The Road Ahead* and more specifically in Bill 164 and draft regulations. Effectively, Bill 164 proposes conditions for withdrawal of business, gives authority for risk classification and no-fault compensation to cabinet and establishes conditions for tort access. We note that the minister's extensive consultation with various interested parties over the past months has resulted in some positive changes to the bill and draft regulations as originally proposed.

We will focus our comments on four major areas: the complexity of the Bill 164 proposals, the absence of any road safety initiatives, tort versus no-fault compensation in auto insurance and cost. In general, we believe Bill 164 creates an administrative nightmare, will help lawyers more than accident victims and will cost people too much money.

Brigid, whom I introduced earlier, is senior vice-president at Guardian Insurance Co. She will address the issues of complexity and road safety and George will address the issue of access to tort.

Ms Brigid Murphy: The draft accident benefits regulation is, in our opinion, unnecessarily complex and lengthy. The government's own regulatory body, the Ontario Insurance Commission, estimates it will need 100 more staff and a \$5-million increase in its budget to administer the new system. This is an administrative nightmare that will add costs all through the system, not just at the commission. In our opinion, we should look for every opportunity to simplify the system, first of all, to make sure that Ontario drivers are not financing paper-pushing and, just as important, to have a system that can be understood. In our experience, it is virtually impossible to satisfy customers who do not understand what they are buying, what benefits they are entitled to and when.

The draft regulation attempts to address a wide variety of potential losses and to prescribe appropriate compensation. The detailed categorization of benefits in the regulations may create certainty in the minds of those who have drafted the document, but in fact it creates barriers for consumers, claims handlers and adjudicators. If I can use a very simple example, being specific is like saying, "We cover broken arms and broken legs," rather than being more general and saying, "We cover broken bones." In our experience, there will always be situations that could not possibly have been anticipated, so being specific is not the preferred approach.

We believe that the complexity of these regulations will result in an increase in the number of inquiries and findings necessary to process a claim. This increases opportunities for confrontation and frustration for consumers, who of course must pay the increased costs for this process.

While creating barriers for some, the attempt through these regulations to adequately address all possible losses will lead to overcompensation for others. Some claimants will receive more money than they have lost as a result of an injury. This will increase the incidence of "illness behaviour," a condition well documented in medical journals as a major disincentive to rehabilitation and reintegration. We fully support

the reintegration benefit approach now included in the draft regulation and the welcome recognition that this is a major component in rehabilitation.

The degree of complexity in the proposed regulation will also mean inconsistency in the payment of benefits to accident victims. The regulation cannot be easily understood, and the best of intentions will not be sufficient to provide equal and consistent access to benefits. Straightforward and timely access with a minimum of red tape and complications are important benefits in themselves and must not be overlooked in the review of this proposal.

No amount of brochures, ad campaigns or other explanatory material can, in our opinion, demystify this complex schedule and help the accident victim or his or her family in understanding exactly what they are entitled to. Spending more money at the commission, at insurance companies or claims adjusters' offices will not eliminate the red tape and the number of confrontations the proposal entails.

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Where that money could be well spent is in the area of road safety. People want action to reduce the number of individuals killed and seriously injured in road accidents. Improvements on a number of fronts can and should be made to reduce the frequency and severity of accidents. There is too much carnage on our highways which could be reduced by government action. We need decision and execution, not proposals for shell corporations without mandates. Progress in road safety will result in reduced human suffering, lower medical costs and lower insurance costs.

Drivers who don't wear a seatbelt while travelling on Ontario roads are 16 times more likely to die in a collision than if they were wearing one. Seatbelt use in Ontario, at 81%, is the lowest rate in Canada and far below the compliance rate in Quebec, at 92%, where driver fatalities have been declining for more than a decade. Furthermore, alcohol is involved in close to 40% of all driver fatalities, and half of the convictions for drunk driving involve repeat offenders. Progress can and must be made to promote the use of seatbelts and to reduce drunk driving.

Car accidents are the leading cause of death for men and women under 25 years of age. In particular, the lack of driving experience and training, rather than the age of the drivers, is the most important factor contributing to more frequent and more severe accidents. Accordingly, a program of graduated licensing has been demonstrated to reduce car fatalities by 25% or more. We know that Nova Scotia is about to move forward with legislation in response to our public awareness campaign. Our campaign in Ontario drew overwhelming public support. Still, there has been no action on graduated licensing here. George?

Mr George Cooke: Mr Chairman, members of the committee, I think we can agree that any product, whether it be that proposed in Bill 164, OMPP or any other, involves tradeoffs among the level of compensation, that is, fairness, equity and adequacy; the timeliness of compensation, that is, how quickly payments are received; and affordability, that is, cost. The balancing of compensation, timeliness and affordability is fundamental to the public interest, but at the end of the day people must be able to afford insurance.

It seems clear that at least part of the intent of the amendments in Bill 164 is to allow greater access to tort while at the same time controlling the cost of damage awards. You must decide if Bill 164 achieves either, or an appropriate balance. The industry is opposed to the tort-deductible approach in Bill 164. We believe it is unfair and unaffordable.

To illustrate the significance of the balance between tort and no-fault compensation, the two charts in the package distributed to you may be of assistance. These are the charts that I refer to, if you could find them in your package. They indicate the differences in approach between OMPP and Bill 164 to the compensation for economic loss—for example, income replacement or medical costs—and non-economic loss, that is, pain and suffering and loss of amenities of life.

Under OMPP, tort access is determined through a description of injuries. People with permanent and serious physical injuries and the families of those killed in car accidents have access to the courts. Approximately 6% of claimants for compensation for economic and non-economic loss obtain tort access. The threshold remains largely untested by the courts at this time and, as such, the 6% that we use, that Mercer used, that Wyatt used, that government uses, could very easily become 12%, depending on the eventual interpretation by the courts.

For economic loss under OMPP, some 94% of claimants are compensated on a no-fault basis. This 94% of claimants do not suffer injuries sufficient enough to penetrate the verbal threshold and therefore are not compensated for non-economic loss.

The structure proposed by Bill 164 compensates all economic loss on a no-fault basis. The government estimates that Bill 164 will allow tort access for non-economic loss for 18% of claimants after application of the proposed deductible; 82% of claimants receive no compensation for non-economic loss. Others believe that up to 35% of claimants will be permitted to recover non-economic loss under this scheme. In any event, there is great uncertainty. If anything near the 35% penetration turns out to be correct, this product will simply cost too much.

With the changed structure, the real winners are the lawyers and the at-fault claimants who will recover more than under OMPP through higher benefits. The losers are the most seriously injured not-at-fault claimants, who won't recover their full economic or non-economic loss, and the consumer, who will pay more.

What's wrong with the deductible approach? We have a philosophical objection to the notion of applying a deductible to damage awards. Damages for pain and suffering and loss of amenities of life are assessed on very subjective grounds with an attempt to put the victim in the position he or she was in before the injury so far as monetary damages are able to do. The courts intend to be fair, having regard for the scope of the injury. Thus it is inconsistent to immediately deduct \$15,000 from an assessment which was set at a level thought to be fair.

A very seriously injured person will now potentially receive less than full compensation. There is no objective set of criteria with a deductible by which the fairness of an award can be judged. The deductible invites inflation of the damage award to ensure that the final result, after deduction, is fair.

This will either lead to significant inflation of damage awards for personal injury or it could lead to a situation of unfairness to those most seriously injured and subject to compensation, without the deductible, under OMPP.

The level of monetary deductible is not based on any defined set of criteria. Where did \$15,000 come from? It is unlikely to be understood by injured people, who cannot reasonably be expected to translate injury to dollars. We believe that public understanding would be enhanced through a verbal threshold, that is, a description of injuries, which, admittedly not easily understood either, has at least an expressed set of criteria as the standard.

Under Ontario's regional court system we fear that there may be different reactions to the deductible in different regions. In the absence of a common definition to be applied by the courts in all regions, there is a much greater potential for inconsistent damage assessments.

It is not clear how a monetary deductible will be handled in a trial situation either. Judges and lawyers are now permitted to propose a range of damages to juries and it is reasonable to assume that the jury will either be told or will soon understand that there is a deductible to be applied in personal injury awards. While most courts will attempt to apply the spirit of the law, we are concerned that there will be a natural tendency to inflate damage awards, particularly near the margin.

There will also be a strong incentive for claimants and their lawyers to drive damages above the deductible level. This way, the injured party, who by definition has suffered damage, will receive something. But to the extent that settlements are achieved by paying small sums in cases approaching the deductible level, the legal costs will be disproportionately high. The lawyer will have to charge a fee based on the work required to develop a claim worth, say, \$20,000 and yet recover the fee out of the \$5,000 paid to the plaintiff. The resulting increased insurance premium pays the lawyer, not the claimant.

It is argued by some that the deductible will discourage lawyers from taking on cases which are close to the line and that therefore there will be many claims at or about the deductible level which will not be advanced. This is probably true. The same can be said about the verbal threshold.

However, a deserving accident victim may not receive compensation because the return after the deductible does not justify obtaining expert legal advice. The same situation probably exists with the verbal threshold, although it may be that lawyers will be more prepared to take on marginal threshold cases because success means 100% recovery of legal fees.

1420

Where uncertainty exists, unnecessary transaction costs—such as legal, adjusting and investigation costs—increase and consumers will be forced to pay unnecessarily high prices, increased prices. From an insurance perspective, this uncertainty will make it difficult if not impossible to accurately set claim reserves or close files, and so the minister's goals of predictability and stability of prices, which we share, will not be achieved.

The analysis undertaken by Mercer and introduced by the minister demonstrates that under a pure tort environment, some 65% to 70% of claims costs pass through the system to

the claimant. Under a pure no-fault system, some 91% of claims costs pass through the system to the claimant. A public policy question you must answer is whether the perceived or actual fairness introduced through a tort remedy is worth the added cost to the system, the increased cost to the consumers and the corresponding reduction in the award to the claimant.

The courts have set a cap on general damage awards of some \$240,000, commonly referred to as the "trilogy cap." This trilogy cap is premised on there being full recovery for economic loss. A very serious concern, however, is whether the basis of the \$240,000 trilogy cap will hold given the proposed no-fault compensation scheme for economic loss. To the extent that economic loss is not fully compensated, one must expect that the cap on general damages will be removed by the courts. The obvious consequence is an increase in awards and an increase in costs. The affordability of auto insurance is jeopardized. The structure of OMPP does not create a similar problem.

To clarify this situation, the industry strongly recommends that a cap on general damages be legislated. Alternatively, we recommend that the government immediately, while the bill is proceeding through committee, state a case to the Court of Appeal to clarify the court's interpretation of the trilogy cap, given the structure of Bill 164. If the court agrees with the industry's view that the cap is unlikely to be maintained, then there will still be time for an amendment to be made prior to the bill receiving third reading and royal assent. It is our view that a failure to pursue either of these two options is to seriously ignore the responsibility we have to the public to provide affordable yet fair auto insurance.

Mr Griffin: For governments that regulate auto insurance, insurers that deliver it and consumers who pay for it, the real issue is affordability. Even though estimates of costs of insurance under Bill 164 have been made by William M. Mercer for the government and by the Wyatt Co for the insurance industry, there is still a large uncertainty as to what actual costs will prove to be. Mercer acknowledges this uncertainty, noting in its report that actual costs may vary significantly from its estimates. But they make no allowance for it in their costing estimates.

Both Mercer and Wyatt studies indicate that under OMPP costs are rising. Both studies reach the same general conclusions about Bill 164: Auto insurance after Bill 164 would be more expensive than it would be under OMPP.

The actuarial studies differ in a number of significant respects. I will summarize just four.

Wyatt relies on recent experience under both OMPP and tort environments in order to estimate costs, whereas the Mercer study ignores OMPP data entirely.

Wyatt relies only on historical experience within Ontario, whereas the Mercer study, as we heard this morning, blends experience from other jurisdictions, most notably Quebec.

The minister, in speaking just a few minutes ago, in his criticism of Wyatt, has ignored the fact that our assumptions through Wyatt reflect the most comprehensive review of claims details since the Osborne study, giving rise to the figures on catastrophic injuries, whereas the Mercer study relies exclusively on data from the tort environment of the mid-1980s. This isn't presumption; this is reality.

Mercer includes a reduction in the frequency of claims by 5% as a result of some unspecified road safety initiatives assumed to be in place on January 1, 1993. Wyatt makes no such assumption. Road safety initiatives announced in *The Road Ahead* over a year ago don't yet exist.

We are concerned that the government may act on inaccurate and outdated information on the actual cost of these proposals. The issue is not whose actuary is better, but rather, what is the real cost of change and who benefits from it? You might ask whether it's lawyers or claimants. The balance of compensation, timeliness and affordability must be based on relevant costings.

The Mercer study is not intended to be, and is nothing more than a relative comparison between the costs of two products at a point in time under a number of assumptions, some of which are now dated and others not identified. In fact, a rate filing made by an insurance company to the Ontario Insurance Commission using similar analysis undoubtedly would be rejected.

In his announcement of January 18, creating the rehabilitation task force, the minister has clearly recognized the need to address cost and affordability while providing timely, acceptable levels of compensation. Until the work of the task force is complete, neither Mercer nor Wyatt can reasonably predict costs in this area.

In summary, we are concerned that the insurance system presently proposed is unnecessarily complex and will result in increased costs to consumers.

In conclusion, the insurance industry recognizes that the current auto insurance product can be improved.

The minister has engaged in constructive consultations with the industry and others and has expressed willingness to continue to do so. We are prepared to work with the government and others to introduce change that is in the public interest. We will be submitting a more comprehensive brief to this committee at a later date.

We appreciate the opportunity to appear before this committee and thank you for your consideration.

The Chair: We don't have much time. We've got 27 minutes for the brief. Mr Owens had a technical—

Mr Owens: Just a quick explanation with respect to the deductible: I think it might be instructive for those in the audience and those who will be watching the news this afternoon to have an understanding of exactly how we came to the deductible, and I'll turn the floor over to Mr Endicott.

Mr Endicott: Mr Cooke, in his presentation, commented about the uncertainty associated with the deductible, and we thought this might be helpful. The starting point, which I think you can infer from Mr Cooke's remarks as well, was that no attempt to restrict or eliminate the smallest claims is going to be perfect.

Mr Tilson: On a point of order, Mr Chairman: I think this is wonderful, hearing the administration give its explanation of the deductible—

Mr Harnick: We heard from them this morning.

Mr Tilson: —as long as it doesn't interfere with our time to ask questions.

The Chair: What I was going to do, Mr Tilson, was to skip the government and come around, a question there and a question here, with the remaining time.

Mr Tilson: Fine. Thank you.

Mr Endicott: In any event, I will be brief, just to say that the deductible approach was chosen because it does cater to, if you like, the existing settlement practices that are already in place. It's true there's no certainty, but as lawyers will tell you, most cases settle out of court. Very few actually go to court because people can generally evaluate what the claims are worth. On that basis, because that's the traditional system, the existing structure that is in place, it was felt that system which didn't introduce any additional factors or components, new words defining what is and what is out—additional, if you like, litigation around what additional words mean—

The Chair: Okay; that's it. Mr Tilson.

Mr Tilson: With respect, that probably tells us nothing.

I have one question to the delegation. All four reports have indicated that insurance rates, which is really a lot what the public thinks about, are going to go up, you say, I think, 20%. The minister has said and still continues to say no, that rates will not go up.

I assume he has therefore two alternatives to fulfil his promise that rates will not go up. Either he'll make a cabinet decision, which is allowed for in the bill, that the cabinet can decree that there will be no more rate increases—I believe there's a provision in the bill that says that—or he can put his socialist puppets on the insurance commission and they will then say, "Too bad; you don't get any rate increases," when you apply to have your rate increases—

The Chair: Mr Tilson, it's got to be a quick question.

Mr Tilson: —notwithstanding these unbelievable costs that we're being put to. I would like you to comment again on the impact if that takes place and there are no rate increases to allow for these tremendous costs that you're going to be put to.

Mr Griffin: First of all, I tried to make the point during the presentation that there was great uncertainty around the issue of cost. The question whether it's 4% or 20% or somewhere in between is very difficult to assess at this point. Our assessment through our actuarial firm is that it is in the order of 12%. However, we recognize that the minister has announced a task force to study rehabilitation which is one of the big areas of cost pressure in the system, so nobody knows what the eventual cost is going to be, but obviously, if the costs go up, so will the prices.

1430

Mr Tilson: He's not going to allow you to raise your rates.

Mr Harnick: May I have 30 seconds to ask a question?

The Chair: I'm sorry; your time's up. Maybe some of the other presenters would make it a little bit shorter, because this will go on the record, if you can condense it so that members of the committee can ask a question. I stated that at two o'clock. I'm sorry, but this is the group that wants to present. It's up to them whether they want to present for 30 minutes or present for 20 minutes and give 10 minutes to the committee. They are the presenters. We're listening to them. Sorry.

Mr Mancini: I want to thank the bureau for its presentation this morning, which is quite comprehensive, very clear and very user-friendly and easy to understand, which I think is important. I have one specific question.

The Chair: Just one short one.

Mr Mancini: This morning when I was questioning Mr Tully, I asked him very clearly on several occasions how many more employees the Ontario Insurance Commission would need, how many more government staff it would need to administer the new 68-page document of regulations. Mr Tully evaded my questions and concluded by saying, "I wouldn't have a response." I want to ask the presenters, how is it that the deputy minister wouldn't have a response, but on page 5 you can tell us that, "The government's own regulatory body, the Ontario Insurance Commission (OIC), estimates it will need 100 more staff and a \$5-million increase in its budget to administer the new system"?

Mr Griffin: Yes, Mr Mancini. We understand that a member of this committee, Mr Tilson, asked that question to the minister in the House and in his question stated that he understood the commission had said it would need 100 more staff and up to \$1 million more dollars a year, and that is the source of our information.

Mr Mancini: From the minister's own lips.

Mr Griffin: Yes.

Mr Mancini: I have great difficulty then with the testimony that we heard this morning. Surely, the deputy minister knows what the minister has or has not said in the Legislature. For a deputy minister to come to this committee, refuse to answer a question and say, "I wouldn't have a response," when the actual response was actually quoted in the Legislature, says a great deal about the testimony we heard this morning.

The Chair: Okay, fine. I'm sorry; the time's up. I'd like to thank you for appearing before this committee.

ADVOCACY RESOURCE CENTRE FOR THE HANDICAPPED

The Chair: The next group we have coming forward is ARCH, the Advocacy Resource Centre for the Handicapped. Gentlemen, would you please identify yourselves for the purposes of Hansard. I'd like to welcome you before the committee. We have until 3 o'clock. I don't know if you heard what I said earlier: Perhaps you can cut some out and answer more questions, because what you have here will go into the record. But yours doesn't look quite as long.

Mr David Baker: My name is David Baker. I'm the executive director of the Advocacy Resource Centre for the Handicapped. With me is Ron McInnes, who is our vice-president, and Harry Beatty, who is the director of policy and research at ARCH.

ARCH is a non-profit community legal centre. It was established in 1980. Currently, we have representation from 41 disability organizations on our board. As the brief makes clear, we have been involved virtually from the beginning in the auto insurance discussions, and I should say that we're proud to be one of the few groups that's still saying the same thing now that we were saying back at the beginning.

Throughout our involvement in the automobile insurance reform debate, ARCH has acted independently of both lawyers and insurer organizations. We have been pleased to co-operate from time to time with the consumers' association, which is certainly another organization that should be listened to by this committee, because it is that organization which will have something to say about concern about rates.

Our basic position in relation to automobile insurance is derived from our representation of the disabled community. We believe that people who are injured in motor vehicle accidents should be compensated fairly and adequately. We believe it's important that people who are disabled as a result of accidents are reintegrated into society and that they have the opportunity to live, work and otherwise participate fully in the life of that society. We believe this goal is justifiable both in human and, as you'll hear, economic terms.

ARCH has not championed one particular model of automobile compensation. We have tried to respond to the various proposals which have been brought forward from time to time by various commissions and governments of the day. We acknowledge that there are competing objectives in automobile insurance reform, and at this point in time we're prepared to support a mixed model which combines the best features of no-fault and tort compensation.

At this point, I'd like to turn matters over to Harry Beatty.

Mr Harry Beatty: I'd like to address two items, beginning on page 2 with our position with respect to the OMPP.

In looking at the OMPP or at any reform proposals, perhaps our primary concern has been those who are most seriously injured in motor vehicle accidents, because many compensation systems in auto insurance and elsewhere tend to undercompensate those who are the most seriously injured. From this perspective, we found OMPP to be inadequate for three reasons, which we presented to this Legislature at the time.

(1) The total lack of inflation protection of course works very much to the detriment of those most seriously injured for the longest time, especially children and young people. If you assume a 5% inflation rate, the value of all benefits is cut in half approximately every 14 years.

(2) We are strongly opposed to the caps in OMPP on rehabilitation and long-term care; those are listed at the bottom of page 2. At the top of page 3, we point out that the \$3,000 cap, which remains in the current plan and which we'll come to in a minute, is only adequate to purchase about six to eight hours of basic attendant care in the current market. That is much less than is required for those who are most seriously injured. As well, in the OMPP with the \$500,000 lifetime limit, in the most serious cases, even disregarding inflation, again in about 14 years the money would run out.

(3) Like other disability groups, we were opposed to the particular wording of the threshold in that we felt it was discriminatory against people with psychological disabilities.

We note that since OMPP has come in, insurers have recognized increased profits but the people who are injured and who have not had a tort claim or who have not been fully compensated in tort are left with unindexed and capped benefits. If the insurers do not pay the costs of significant and long-term disabilities, then those costs are borne by the disabled people themselves, who do without care or services or are put

into an institutional setting rather than in the community; or their families, who may wind up delivering care uncompensated or who have to purchase necessary disability-related items and services out of their own pockets; or of course the general public. Those are the only three options.

If insurance does not pay rehabilitation and long-term care costs, then the costs are effectively either borne by the individual, his or her family or the taxpayer, because people will wind up being supported by the ministries of Health and Community and Social Services.

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That brings us to our position with regard to the current Bill 164 proposals. In overview, we think that the mixed package, as David indicated, could be made to work fairly if it were amended appropriately, but, as you no doubt will have gathered, we are still very strongly opposed to the \$3,000 monthly cap on long-term care.

It is part of the task force recently announced by the minister that this cap will be re-examined, that the task force will have in its mandate to look at alternatives. We are pleased to participate with this task force. We believe, however, that it is essential that the final result be that the \$3,000 cap come out of the statutory accident benefits regulation.

Secondly, while indexation has been introduced for the benefits in Bill 164, it excludes those outside the labour force, and we think this is unfair to people who may be outside the labour force through no fault of their own. It sort of penalizes again those who may have already been penalized by the lack of opportunity and lack of employment equity that has existed in the past in our society. So we also advocate the indexation of the \$185.

It is especially important that these items be addressed now, because the right to sue for any economic loss is being taken away altogether and, in the case of long-term care, those who were compensated in tort and would have been allowed to remain in the community as a result, will now be at risk of institutionalization against their will.

I'm not going to address the costing in detail, although it's in the report, but our essential point with regard to the costing prepared by Mercer is that if you look at the table, which is the appendix, essentially Mercer says that the total of injury coverages in dollars per car per year, which was \$424 pre-OMPP, has gone down to \$240 under OMPP and under The Road Ahead is slightly increased to \$271.

In the overall reform process, we still have a picture where dollars have been taken away from total compensation. Some of this is no doubt due to the greater efficiency of having more no-fault benefits and less reliance on the courts. Nevertheless, we believe that the savings in premiums, which have resulted in insurers' profits, have to a significant extent been achieved so far by cutting compensation, and Bill 164, without the improvements, we are suggesting, doesn't go far enough to redress that balance.

There has been a strong public perception created, I think, that the current package is spending so much on compensation that it will drive rates way up. At the same time, in the Bill 164 package, something that is not taken account of very much, if at all, in the Mercer costing is that it's a secondary coverage provided by auto insurance. Every improvement in CPP, long-term disability and workers' compensation will be

reflected in decreased costs to insurers in cases where people can claim from both systems. As our society becomes more accessible to persons with disabilities, as there is progress in employment equity and human rights, we will find more and more people being integrated into society, being accommodated by employers and by public services and, accordingly, given that auto insurance is a secondary payor, the costs are going to go down. So we would like that taken into account.

Finally, if you look again at the Mercer costing, the reductions and savings in auto insurance have all come from the personal injury side. There really have not been any reforms at all to make a significant reduction in costs on the property side, and that is something that might be considered as well.

I'll now turn it over to Ron to address long-term care issues.

Mr Ron McInnes: Just before getting into long-term care, to follow up on what Harry has said, it would appear that under all three systems, disabled vehicles seem to be getting a better deal than disabled people.

Long-term care is the major issue we're concerned with. We have always stated our strong opposition to the \$3,000 monthly limit in that area. We are going to be participating in the task force, as Harry mentioned, and we hope the task force will lead to a resolution of that issue that we can support. Without anticipating all the issues that will be addressed at the task force, we would like to summarize the reasons why that limit can and should be removed.

As Harry has mentioned, the limit is going to force significantly injured people to accept institutional care when their wishes and the wishes of their families are that they remain in community settings. I think this is something that not only this government but previous administrations have been opposed to. Deinstitutionalization has been a policy of government in Ontario for some time now. This would seem to be moving us away, at least in part, from that policy.

As Harry mentioned, \$3,000 a month purchases only six to eight hours' basic care a day, and those with significant injuries will require more. This could lead, and probably in many cases will lead, to them being forced into institutions, and there are a number of undesired consequences to that.

There's loss of independence and enjoyment of life, which should be a major concern to all of us, apart from the monetary considerations which seem to be taking up so much time at these hearings.

When people with disabilities are not part of the community, when they're in institutions, their prospects for employment are greatly reduced. Accordingly, the chances that they'll achieve financial independence and no longer receive income replacement payments are reduced. This adds cost to the system as a whole. This is a poor long-term strategy at a time when increasing awareness of the employment capabilities of persons with disabilities and enhanced supports to their training and employment are being emphasized.

Also, once people who've been injured go into an institutional setting, the government ends up paying 100% of the cost through the ministries of Health and Community Services. This adds significantly to the cost of those particular systems at a time when they're already overburdened. At the same time, it means the insurer no longer has to pay any

long-term care costs at all. It would be less expensive for government to cost-share with insurers in the long-term care costs over the \$3,000 monthly rather than keeping the \$3,000 cap and winding up paying the entire cost itself in these serious cases. This is an option we have presented to the government.

In other cases, faced with the option of placing family members in an institution, many families may make heroic sacrifices rather than do so. Usually, this will be a situation where you have a mother, a wife or a daughter providing care for many years on an uncompensated basis. The Bill 164 proposals do not address adequately this problem, in our opinion, because of the \$3,000 cap.

There are a number of reasonable alternatives. If additional funding is required for long-term care, this could be achieved through a modest reduction in property coverages, as Harry mentioned, or premiums could be increased slightly to higher-income earners or those who require business interruption coverage. These are options we will be presenting in the task force, but either option we consider fairer than simply putting an arbitrary cap on long-term care. Thank you.

The Chair: Ready for questions? Okay, Mr Tilson, five minutes.

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Mr Tilson: Mr Harnick.

The Chair: Or Mr Harnick.

Mr Harnick: I understand you have had some reservations with respect to the setting of the deductible at \$15,000 and you've had some discussions about that. I wonder if you can tell us what your reservations are about a \$15,000 deductible.

Mr Beatty: I'm not sure what information you've had. We have not specifically opposed the idea of the \$15,000 deductible. Of course, it adds to our concerns about long-term care and these other costs, because in those serious cases, it would come off the total amount of funding people have. But we have not specifically objected to the \$15,000 deductible.

Mr Harnick: Is \$15,000 too high, too low or the right amount as far as you're concerned in terms of a starting position for a system based on a deductible threshold?

Mr Beatty: I think it's approximately in the right area. The real problem that existed in tort, in the pre-OMPP period, was that there tended to be a lot of smaller cases that seemed to be somewhat inflated in terms of the administrative cost they imposed on the system and lawyers' fees and so on. They were getting a disproportionate amount of the funding. So if you're going to have access to the courts and tort, some mechanism is needed to remove those smaller cases. Now, there are pros and cons to every approach, but the \$15,000 deductible is one way of achieving it.

Mr Harnick: If a \$15,000 deductible had the impact of eliminating \$20,000 or \$25,000 claims, would that cause you some reservation as to the level of deductible, if it had an impact on more serious claims?

Mr Baker: I think our basic position is that the system has to be looked at as a package. It's costed as a package and it needs to be examined as a package. We've taken the position that this approximates a fair balance between the various approaches. We've also indicated that we would be prepared

to sit down and discuss what a total no-fault package would look like.

Mr Harnick: That's not my question.

Mr Baker: I understand that, but I think it is the answer to the question. The point I'm making is that we have to look at how we are allocating scarce resources between people who are injured in automobile accidents. In our view, while we feel insurance profits will remain excessive under the proposal and there is room to remove the cap, the emphasis should be placed in that area rather than in the area of pain and suffering.

Mr Harnick: In terms of eliminating cases that are not the minor cases your colleague indicated, if the \$15,000 deductible had the effect of eliminating those claims that are more serious as opposed to the minor claims, would that cause you some concern? That's what I'm driving at.

Mr Baker: We would like to see the maximum amount flow through the system into the hands of people who are injured in auto accidents. That's where we're coming from. The question is also one of efficiency. As we've said, what has happened in the past is that people with less severe disabilities have tended to be overcompensated because of the transaction cost. A mechanism had to be found to keep those claims out of the court system. Whether the cases in excess of \$15,000 would be deterred I think has a lot to do with the way in which lawyers handle negotiations and representation of clients.

It concerns us of course if people are not being fully compensated for their losses. Our view is that the emphasis should be on the no-fault benefits, however, in terms of addressing those losses.

Mr Harnick: One thing you just said that struck me is that you're concerned about people not being compensated for their losses. What is your position in terms of your concern about not being compensated for the losses of a scheme such as Bill 164, which does not compensate victims for their actual economic loss sustained?

Mr Baker: Our position has been that there needs to be consideration given to supplementary types of insurance. We haven't been opposed to looking at ways in which people can purchase additional types of insurance to cover those kinds of losses.

Mr Harnick: That would not be something you're upset with?

The Chair: I'm sorry, Mr Harnick. I've got to go on to Ms Haeck.

Ms Haeck: Actually, I believe Mr Owens had a question. Did you want to raise it at this point or shall I continue?

Mr Owens: Go ahead.

Ms Haeck: Okay. I do appreciate your comments. In my riding the Ontario Head Injury Association has a rehabilitation facility. I've had a chance to tour that. So your comments really are quite timely, I think, with those visits.

You've raised the concern of the immediacy of rehabilitation and basically the need of rehabilitation, and I think there's a recognition, at least by some around this room, that the tort system really doesn't address that or allow for that at

all. What is your experience with regard to the importance of immediate access to rehabilitation?

Mr Beatty: Clearly, all of the evidence shows that rehabilitation is more effective the earlier it begins in the process. If someone has been injured and there is a big gap between the time that he's stabilized medically or whatever, when the treatment phase is over, and when rehabilitation begins, the person becomes discouraged. They become less part of the workforce. Ron may want to add to this, but I think there's a consensus that rehabilitation should start at the earliest possible time.

Mr McInnes: Yes, and I think certainly as well as that it's not only going to be more successful beginning at the earliest possible time, but it's probably also going to cost less in the long run.

Ms Haeck: Very good.

The Chair: Mr Owens has got a question here.

Ms Haeck: Oh, he does. Okay.

Mr Owens: I'd like to thank you for your presentation. You've posed some tough questions to the government on the issue of rehabilitation.

As you're aware, we will, should the legislation pass, remove the caps that have been placed on rehabilitation with a task force set up to look at the \$3,000-monthly cap on rehabilitation. I'm curious to know. In terms of the kind of role ARCH will play on the task force, what recommendations will you be looking at with respect to psychological rehabilitation and physical rehabilitation of accident victims?

Mr Beatty: I think a lot of those issues are quite difficult, and I think it's important to have the deliberations of the task force. We have felt throughout the auto reform process that there should be this kind of detailed look at the whole area.

Basic objectives for rehabilitation are that it is readily available, as we've already indicated, that the injured person be an active participant in deciding the future of the rehabilitation process and that a whole range of rehabilitation options be available which will meet individual needs. What people need is quite different in, say, the area of education and training that follows the period of medical rehabilitation, and we will want to see that a range of options is available that is appropriate for the individual.

The Chair: Okay, I'd like to thank you for appearing before the committee. The information that you've given to us here is very important.

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ADVOCATES' SOCIETY

The Chair: Will the next group, the Advocates' Society, come forward, please. We're on until 3:30. We all have your brief up here. Looking at 21 pages, you can read it all into the record, but there will be no time for the committee members to ask any questions after. You are the witnesses, so it's up to you whether you want to give 30 minutes of speech or give 15 or 20 minutes of an oral presentation and then leave some time for the members of the committee to ask questions. I'd like to welcome you to the committee. You may begin by

identifying yourself for the purposes of Hansard, and then you can start into your brief.

Mr John Soule: My name is John Soule. I am the chair of the insurance committee for the Advocates' Society. With me is Duncan Read, the executive director of the society. I appreciate your comments, Mr Chairman, and I do not intend to read all of the papers that we've produced. I will, however, highlight, and I hope to leave about 10 minutes for questioning.

First of all, I'd like to comment that I didn't realize I had such a great future in front of me. Most of the lawyers I speak to don't believe there will be that much litigation out of the legislation that is arising, but I'll leave that aside.

The Advocates' Society is a group of 1,800 Ontario trial lawyers whose practice is primarily restricted to the courts and administrative tribunals. A significant portion of our members practise in the automobile insurance field, both for injured victims and for insurance companies, and because of that experience we feel that we bring to the committee some understanding of what the pragmatic results and the end results of the legislation may well be.

The Advocates' Society wishes to point out that the government campaigned on the automobile insurance issue and promised the electorate that, if elected, it would create a publicly owned insurance scheme and restore the right of all innocent victims to seek compensation through the traditional tort system. The government has not been able to keep its first promise, and in our view the provisions of Bill 164 and the regulations that have been made pursuant to it suggest that the government may not be keeping its second promise.

Although the society is philosophically opposed to the nature of the legislation by reason of the fact that many victims are being asked to forgo their right to potential recovery of full economic loss, particularly their right to recover their actual loss of income or wages, the fact remains that we appreciate that the government has put forth legislation, and we hope that our comments today will be made within the framework of that philosophical point of view.

We hope to cover areas that we feel require correction or amendment in order to provide reasonable coverage and reasonable rights of recovery to those significant and large groups of the population whose compensation we believe to be glaringly inadequate. So in essence, this paper is from a victim's point of view. I propose to first talk briefly about the bill and then the statutory accident benefits that the regulations provide for.

We have three concerns about the bill. The first and most major concern, and the concern upon which I will comment later, is the fact that it does not allow victims to recover their economic losses, and that's both from an income point of view and from a care point of view. I also wish to speak on the \$15,000 deductible and the issue of contributory negligence and how that may affect the working of the \$15,000 deductible.

I propose referring to an example. I was recently involved in a matter in Milton. It's not an automobile accident but it involved a woman in her mid-30s who had fallen, while walking out of her home, on a concrete step which was wobbly. She fell and put her right hand out to break her fall. She broke her fall but she also broke her wrist. She suffered what

is called a Colles' fracture, both bones at the bottom of the wrist. She was casted and off work. The fracture did not heal properly and she had to have a further operation. There were still difficulties with range of movement and some nerve problems in her hand. She is now going to have a third operation and that's scheduled for next week.

The pre-trial judge assessed her general damages at between \$15,000 and \$20,000. Now, by reason of the operation of the deductible that the government proposes, which is a \$15,000 deductible, her recovery at most, on the judge's figures, would be \$5,000. If I was advising her from a plaintiff's point of view, I would tell her that she should not risk going to court because of the probable level of recovery, weighing that against not only the cost of her own lawyer, but the risk of having to pay the defence lawyer something as well should she not get over a certain level.

The second aspect that relates to the \$15,000 deductible that we feel requires comment relates to the issue of contributory negligence. Mr Charlton briefly referred to that in his remarks this afternoon, but I don't believe the impact of this particular section has been brought home to either the public or those actually working in the industry.

The rules that have been proposed as to how contributory negligence is to be dealt with suggest that in an automobile accident situation, the owner's liability or responsibility must be determined first. If we're dealing with a 50-50 situation, then if the driver of the car or the owner of the offending car is only 50% responsible, it's only at that stage that the deductible kicks in.

If, in the example of the woman that I have used, she even received an assessment of \$30,000, she was found 50% at fault for not fixing her step even if her landlord did not, she would only be allowed the first \$15,000—that's after contributory negligence is taken into account—and then the deductible is taken off. So if she has a \$30,000 injury, she gets nothing if she's 50% at fault. In our opinion, this will have significant effects upon people with injuries of even greater monetary worth and greater severity.

It is the position of the Advocates' Society that the \$15,000 deductible is too high. Persons with significant injuries, including fractures and nerve damage, are restricted from seeking recovery because of the financial risks involved. It is the position of the society that the deductible should be halved.

In addition, we feel strongly that if there is to be a deductible, it should be applied before a court considers the issue of contributory negligence. In the 50-50 situation, people will likely receive advice from a lawyer to the effect that they should not take the chance of proceeding to court unless it is clear that their injuries are worth in excess of at least \$50,000, and more likely \$75,000. None of you would like to suffer from the nature of the injuries necessary to achieve such an assessment.

I wish now to deal with certain of the provisions of the statutory accident benefits schedule which deal with specific categories of people and their ability to recover their economic loss through this system. As I've indicated, it's the only recourse people have for recovery of economic loss.

We believe that the regulations, as presently drawn, contain large cracks through which significant and important groups of the population will fall. These include, and they

aren't limited to, children and students, the self-employed, surviving members of a family where the major breadwinner has been killed and those requiring round-the-clock care because of catastrophic injuries.

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I'd like to deal first, briefly, with children and students and the effect the legislation has on them. There are two types of benefits that are available to a student. The first is a weekly benefit of \$185 per week and the second is an annual lump sum benefit of anywhere from \$2,000 to \$8,000 per year if the student misses a year of school.

Until I read the regulations, I was under the impression initially that the \$185 a week was available to any student. In fact it's clear it's not. It's not available to anyone under 16 years of age. The only benefit they receive under this regulation is an allowance of \$2,000 per year if they're in elementary school or \$4,000 per year if they're in high school. After they reach 16 years of age, they then become entitled to the \$185 per week.

Unfortunately, that only runs for a maximum for two years, regardless of how long the person would have been in school. At the two-year point, or at 18 years of age or two years after the accident, if the person is still severely injured and unable to continue with schooling or work, he or she is entitled to receive loss-of-earning capacity benefits, which I'll go into later. They also, in addition to that two years of \$185, get a lump sum payment, but only one. So if a person was in grade 12 and intended to go through a four-year degree and could not complete any of that, that person only gets one \$4,000 lump sum payment.

For students who are catastrophically injured—not even catastrophically injured, but those with significant injuries that prevent them from continuing with their education and from entering the workforce, the society believes that the level of benefits that are being made available under this particular regulation is totally inadequate. If a student is injured in a car accident to such an extent that he or she is unable to complete his or her education and unable to obtain employment because of the injuries sustained in this accident, then he or she is entitled to receive anywhere from 55% to 90% of the average net income of an industrial worker in Ontario.

In June 1992 the average gross weekly income was \$578. After standard deductions, the net income is \$431, and by reason of the sliding scale the government has put in place in the regulations, if that student can't continue with his employment and if the accident happened when he was 16 or 18 years of age, he or she receives the grand sum of \$237 per week to age 65, and then it reduces after that.

Mr Harnick: That's right.

Mr Soule: If they're 30 years of age when the accident happens and it prevents them from working—I'm sorry, Mr. Endicott; I disagree with you—they get \$388 a week. If, for example, it's a university student who attempts to enter into the job market at 24 to 26 years of age and is married, he gets \$325 a week if he can't continue to work.

Another group that we feel will suffer significantly is the self-employed and small business persons. These people, in our opinion, form a strong backbone of our population and they create many jobs. The government describes its legislation as

The Road Ahead. In the case of the self-employed and small business persons, it is anything but.

What the regulation does is it looks to the historical past in gauging what a self-employed person or a small business person is entitled to receive. It refuses to look to the future. In other words, regardless of whether I can show you that I am going to go out and my business will improve over the next two or three years or if I am just entering into the commencement of a professional practice, in the self-employed person's case there's no provision in the legislation to look to the future. There's no provision for productivity to permit the benefit level to reflect what this person's future would be. It is simply pegged to what the person was earning at the time of the accident or before the accident. It doesn't take into account artificially low incomes by reason of putting capital back into work or such things as a recession.

The third example I wish to deal with briefly is the fatality, and essentially the regulation provides that the minimum recovery for a fatality is \$50,000 for the surviving spouse and \$10,000 for each dependant. The maximum benefit is \$200,000.

If we take an example and assume a 35-year-old married father of two children under 10 years of age is killed in an automobile accident, and assume that he earned \$45,000 per year, then his gross weekly income is \$865, or \$625 a week net, assuming standard deductions. Under the government's proposed treatment of fatalities, the unemployed wife and the surviving children would receive a total of \$117,000.

If the spouse had not been working and is now forced to enter the workforce, the interest earned on the lump sum payment would not even cover the cost of child care. If the family owned its own home and, like most of us, had a mortgage, then the spouse might choose to pay off the mortgage. She would still have to seek employment, find day care assistance and attempt to maintain the house. It is not unrealistic to think that the house will eventually be lost, that reasonably remunerable employment might not be found and that this family will end up on welfare.

Mr Harnick: The Endicott solution. Great. You ought to be ashamed.

Mr Soule: Now what has happened, what the government does in its formula—

Mr Harnick: It would never have happened—

The Chair: Mr Harnick, I know when some of us get a little bit older we talk out loud after a while. I just want to remind you that I can hear you. Would you carry on, please?

Mr Soule: Thank you.

Mr Harnick: The intention was that you would hear me.

Mr Soule: What the government has done is used a formula of net income times 187.2 weeks. In other words, what the government is doing is suggesting that the value of the worker's death to his family is three-and-a-half years of that person's net weekly income. Support awards made under the Family Law Act following marriage breakup almost always contemplate periods of support well beyond this. We fail to see why the government now feels that separation by death should be treated differently.

Under the OMPP and the previous tort system, that family likely would have recovered in excess of \$700,000 on account

of its economic loss to get it through, and that door is now being shut.

I don't propose to comment on care costs, as ARCH has commented upon the inadequacy of the \$3,000 per month ceiling on attendant care. Two very recent medical malpractice cases found that the in-home care required for two infants was \$11,600 per month for one and the other \$6,700 per month. As ARCH has indicated, the level proposed by the government is low.

Accordingly, we, the Advocates' Society, suggest that the government must look to those inadequacies and correct them either in the legislation or in the regulations. If they don't want to, we are suggesting that there should be optional coverage that the industry must provide to cover the income, and I'm not speaking of care costs here, I'm speaking only of income: wages, productivity, salaries.

We're suggesting that there be some type of income protection endorsement made available by the insurers to all drivers in Ontario. As I say, that would cover the situation of students, it would cover the situation of fatalities and it would also cover the cost of people who receive, in income or wages, more than \$52,000 a year.

We don't believe the coverage will be excessively expensive in that there is presently an SEF 44 available that most drivers have. It's called the family protection endorsement, and it covers the various losses that I've just been talking about if the offending party has inadequate liability insurance. We're suggesting that a similar product be made available, and if the government wishes, it may make a second endorsement available with regard to medical, rehab and care costs.

The income protection endorsement would cover net income losses over and above a maximum weekly benefit. It would be available to all drivers, but we propose that only those not at fault have access to it, on a 100% basis if there is no contributory negligence, and on a reduced basis to reflect contributory negligence if a victim is only contributorily negligent.

I have heard Mr Charlton argue in the past that there is insurance coverage available to cover these types of losses. With respect, I must disagree. He is referring, in my belief, to disability insurance. This is the most expensive form of insurance that is available on the market. It doesn't provide full income replacement, even if you can afford to purchase it. Generally, it will only permit someone to purchase coverage to the extent of 65% to 70% of his income.

One must have an income to be able to purchase it. The product is not available to students, as they do not have any income. The industry will not sell insurance of this type for future speculative losses that a student or a businessperson might suffer. It offers no protection in the fatality example. It is dependent on a number of factors, including age, health, occupation, benefit level and the waiting period.

1520

I phoned an acquaintance of mine in the insurance industry on Friday and asked him to quote me the cost of disability insurance for an early-40s, non-smoking executive who wished to protect \$150,000 worth of income. Of the two leading national companies that sold the product, one would provide coverage to the extent of \$5,600 a month, and the other to \$5,300 a month. The maximum coverage that executive

could purchase would be \$67,200 a year. With a 31-day waiting period, which is 3.5 weeks longer than that proposed in this particular legislation, the cost per \$100 per month of that coverage is \$78.24. For that person to attempt to protect his income costs \$4,381 for a premium.

In addition, by purchasing that, the statutory accident benefits available to him are worthless, because the government has directed that you must seek recourse from all other insurance before you have recourse to the accident benefits under your automobile policy.

If the government wishes to truly refer to Bill 164 as The Road Ahead, and if the government wishes to keep its promise to the electorate to restore the right to sue and tort for traditional losses, then it must either amend the act and the regulations as suggested or, alternatively, provide optional coverage to the motorist in the form of an income protection endorsement. If the government fails to do so, then it removes the right of innocent victims to full recovery of wages and salary.

It also takes away a further and much more disconcerting right in our society. It actually prohibits innocent victims from attempting to protect themselves from economic loss over and above a level the government deems appropriate. This government is effectively saying that no one in this province is entitled to make more than \$1,000 per week net, and that in the case of students and small business persons in particular, no one can hope for a brighter future, a more productive future from employment, than they had at the time of the accident which disabled them.

The Chair: Are we ready for questions?

Ms Haeck: I believe Mr Owens will have some useful comments on this, and I'll defer my questions till later.

Mr Owens: The issue with respect to the education benefit, I think, has not been stated as clearly as we have set out in the regulation. I'd like Mr Endicott to correct some of the perceptions that may have been left.

Mr Soule: You see, Mr Owens, lawyers are here because there are different interpretations of legislation. The government has one interpretation of its legislation. I've only made comments as to what I think a lawyer might interpret the legislation as. I don't know if it's—

Mr Harnick: Or a court or a judge.

Mr Endicott: First of all, I'm here to clarify the policy intent of what was there, and there may be disputes about what the regulation is, although I should add that regulations are drafted with the assistance of legislative council. In that respect, the intent of the regulation is to have the ramp increase with age so that everybody who has a disability will actually see an increased amount of the average industrial wage. Anybody, by the time he is 30 years old, will get 90% and will not be pegged at the amount at the date of his accident.

Mr Harnick: That's 90% of the average industrial wage?

The Chair: I'm sorry.

Mr Harnick: If you're going to let him answer, let him clarify it.

Mr Endicott: Weekly wage.

Mr Harnick: Ninety per cent of the average industrial weekly wage?

Mr Endicott: Weekly wage; there's no "industrial" in it. That was my mistake.

Mr Harnick: What is the average weekly wage, then? What are you pegging it against? The average weekly wage of everybody in society?

Mr Endicott: In the province.

Mr Harnick: I didn't know that statistic was published. How are you going to find that out?

Mr Endicott: It's Statistics Canada.

Mr Harnick: What is the average weekly wage right now?

Mr Soule: In June 1992, it's \$578 per week gross.

Mr Harnick: The net of that is \$460, and you're going to say that everybody gets 90% of \$460?

Mr Soule: No, \$416.

Mr Harnick: That's about \$360 a week, and you're going to justify your position by saying that somebody who will never work again and is a student can live on \$360 a week? You're going to stand here and justify that in front of this committee? You should be positively ashamed.

Mr Endicott: No, I think you're under a misapprehension, Mr Harnick. I'm not here to justify anything. I'm here to explain what is in the bill and what the intent is.

Mr Harnick: Is that what's in the bill?

Mr Endicott: It is 90% of average weekly wage and it is indexed as well. I would point that out.

Mr Harnick: So it's \$360 a week indexed.

Mr Endicott: No, it isn't \$360.

Mr Harnick: Well, if the average weekly—we'd better sort this out right now. You're the guy who wrote this stuff. I would think you'd know the answers.

The Chair: Mr Harnick, he's not on trial here. He's just giving you facts.

Mr Mancini: The legislation is on trial.

Mr Harnick: He wrote the legislation.

Mr Tilson: You people should be embarrassed.

The Chair: Okay, let him answer.

Mr Endicott: The information we have is that 90% net of the average weekly wage would pay \$391 a week.

Mr Harnick: I'm sorry; pardon me. That person, then, that student will be relegated to an income for the rest of his life of less than \$20,000, indexed.

Mr Endicott: Remember, it's non-taxable as well.

Mr Harnick: Okay, but it's \$20,000. Assuming that it's non-taxable, it's probably the equivalent of a taxable income of about \$26,000 for the rest of their life. Am I right about that?

Mr Endicott: I don't believe it's \$26,000.

Mr Harnick: It's the equivalent of \$26,000 because you don't pay tax until you get—

Mr Endicott: It's a little over \$30,000.

Mr Harnick: A little over \$30,000, so that student—I think you're wrong, by the way, because \$17,000 is the minimum tax rate, which is virtually nil. But the fact of the matter is that you're saying a student is going to make \$20,000 net for the rest of his life. That's what you're—

Mr Endicott: No, I'm not saying that. The benefit is indexed.

Mr Harnick: I'm sorry; indexed at whatever inflation is. Let's assume there's no inflation. That student, who's injured for ever, is going to make \$20,000.

The Chair: Wait a minute, Mr Harnick.

Mr Harnick: It's very important, sir, that we clarify this.

The Chair: Mr Kwinter is on here until 3:30. He has an opportunity. He can carry on where you left off or he can give you his time.

Mr Harnick: You should be ashamed if you wrote that piece of legislation, let me tell you: \$20,000 for a student for the rest of your life.

Mr Kwinter: Do I still only have a minute?

The Chair: No, you've got until 3:30; you've got a couple of minutes there.

Mr Kwinter: I've been sitting here since this morning and I get the feeling that somehow or other the wrong problem is being addressed. If you'll go back to the mid-1980s, to 1985 or 1986, when this insurance problem came upon us, the major problem we had was that the courts were reinterpreting what was liability, and the actuaries couldn't deal with it because the insurance companies thought their liability was limited to certain things and the courts were reinterpreting that.

As a result, they wouldn't write liability insurance, there wasn't availability, people weren't doing anything and the rates went sky-high. It was that which brought on this crisis in insurance. Up until that point, everybody was relatively happy. The problem was that suddenly insurance wasn't available, and if it was, the cost was prohibitive.

What has happened is that the political decision was, "We've got to come up with a plan that will make insurance affordable, whatever that number happens to be." That's all we're dealing with here. In order to do that, everybody had to compromise and come up with what they felt was the least expensive for the most acceptable coverage, and everybody had to give up something. That was the number that came up.

Now we have a situation where under Bill 164, depending on what actuarial consultant you believe in, it will either go up 4.4% or 20%. But in the presentation by the Advocates' Society, I read through the whole thing that really your major thrust is that there isn't enough compensation for various segments of the society that are going to be affected by an accident. I admit that and we agree with that, but there has to be a realization that this is all a factor of premium costs. There is no such thing as a free lunch. Money isn't going to come out of the air. Whatever increases you give have to be recovered through increased premiums. What is the reaction of the Advocates' Society about that particular problem, which is the major problem that we're dealing with?

Mr Soule: That is the reason we're suggesting the optional income protection endorsement. It costs the government nothing; no one has to buy it. The legislation can stay as it is or you can go back to the OMPP and have it as the Liberals wanted it, but the fact remains that no one would be forced to purchase anything he did not want to. They are only being given the opportunity to protect themselves and their

families from real economic losses that may come about as a result of an accident.

I'm here primarily from the victim's point of view, Mr Kwinter, because I feel that the legislation has shortcomings in that fashion, but in so far as the cost factor is concerned, and we agree it's a legitimate concern, we believe that the way around it is to offer optional coverage to motorists, which is provided by the insurers to avoid any further increases, be it 4% or 20%, on that particular issue.

The Chair: Okay, gentlemen, I'd like to thank you for coming before this committee. Your information has added quite a bit to this process.

Mr Duncan Read: Thank you, Mr Chairman. May I just ask one quick procedural question? Do I understand correctly that we would have up until the time you start clause-by-clause to submit more complete written documents?

The Chair: You have until February 11.

1530

CONSUMERS' ASSOCIATION OF CANADA (ONTARIO)

The Chair: The next group is the Consumers' Association of Canada (Ontario). I'd like to welcome you to the standing committee on finance and economic affairs. We have until 4 o'clock. If you can leave some time, as you can see, all the members of the committee are desperate to ask questions. Mr Harnick took a little bit more time last time with the questions he had taken—

Mr Harnick: No, no.

The Chair: Yes, it was.

Mr Harnick: Point of order, please.

The Chair: Yes?

Mr Harnick: When Mr Endicott is going to clarify something, I think, as a member of this committee, I have the right to make sure I understand what he's clarifying. That's all I did, and with due respect, I think we should take all the time we need so that we understand this legislation.

The Chair: It depends on the time. After 6 o'clock if you want to come back and ask Mr Endicott—

Mr Harnick: I'd be delighted to sit here around the clock.

The Chair: Okay, I'm carrying on with these people. You're cutting into their time.

Mr Tilson: On that point of order, Mr Chairman: On at least two occasions—it appears it's going to be a pattern that's going to be set—the government members of this committee are referring their comments to Mr Endicott. The difficulty I have, and it gets back to the point that I left this morning, is that we're not appearing to have an opportunity to question Mr Endicott, who was here this morning, on matters of administration and how the process works, yet you're denying us that opportunity as he speaks. It creates a great deal of difficulty.

It's one thing questioning Mr Owens or yelling at Mr Owens, but Mr Endicott is putting forth how the process is working. We, as members of this committee, must be given an opportunity to question Mr Endicott as to how that process is going to work.

The Chair: Can we take that up at the subcommittee meeting?

I'd like to welcome you again to the standing committee on finance and economic affairs. I believe there was some mixup with your other two associations in Windsor and Ottawa phoning the clerk. Maybe you can just tell us a little bit about that. There are two other groups that didn't get on the list because of the confusion with the other two branches.

Mr Chris Ballard: Very briefly, what happened was just through some miscommunication between the Toronto office and our locals in Windsor and Ottawa. They had requested that they be allowed to speak before this committee when it visits those two cities and they missed the deadline. That's basically what's happened.

The Chair: Okay, fine. I just wanted to make sure that I had it straight too, as the Chair.

If you don't mind identifying yourselves for the purposes of Hansard, you may begin. We're on till 4 o'clock.

Mrs Audrey Verge: Mr Chairman and committee members, on behalf of the consumers' association of Ontario, I am Audrey Verge, and I have with me today Mrs Helen Anderson, former chair of the insurance committee, and Mr Chris Ballard, executive director. Both of these persons have made a major contribution to this submission.

The Consumers' Association of Canada (Ontario) is an independent, non-profit, voluntary organization that represents and informs consumers and advocates action on their behalf to improve the quality of life. It is the largest organized consumer group in Canada. The Ontario branch of CAC has over 40,000 members. Consumer advocacy, consumer representation and consumer education have been major activities of CAC and of its local association throughout its 45-year history.

CAC (Ontario) has been involved in the issue of automobile insurance reform for some time. As an interested group we appreciate the opportunity, before this legislation is passed, to comment on the draft regulations under the Insurance Act statutory accident benefits schedule respecting Bill 164. For the record, we wish the committee to note that this volunteer organization has had only four working days since receiving the most recent draft regulations in which to prepare this submission. For the most part, we will limit our input to comments on the statutory accident benefits schedule, because we believe this area to be of great importance to consumers.

In general, CAC (Ontario) approves the proposed regulations, especially those pertaining to the indexing of benefits. Not to index benefits has been a grave error in the past. We approve of setting maximums or limits to various benefits, since to award higher amounts, especially in higher-income replacements to higher-income persons, would weigh more heavily on all premium payers, especially those with lower incomes.

CAC (Ontario) concurs with the government on the proposal to provide better rehabilitation benefits. The sooner injured persons commence proper therapy and rehabilitation, the sooner they will be returned to society and be able to resume their former occupations. Everyone benefits: injured persons, their families, insurance companies, government and all premium payers.

We welcome the provisions of no monetary limits on reasonable medical expenses or reasonable rehabilitation expenses. Seriously injured persons must be supported and aided until either they recover from their injuries or are returned as far as possible to their former condition.

Affordability is one of the prime concerns of CAC (Ontario). We are cognizant, of course, of the needs of the injured persons and believe that they must be cared for and helped back to health as soon as possible. However, approximately 80% of all Ontario drivers at any one time are considered accident-free. In other words, they have not had an at-fault accident during the previous five or six years.

Those drivers, as insurance consumers, are anxious to keep premium levels as low as possible. Many drivers have not had an accident for 10 or 20 years, or even for their entire driving career. It is necessary to try to keep premiums as affordable as possible, while maintaining adequate benefits for those unfortunate ones who suffer injury on the road.

We wish to make one very strong recommendation: that as much documentation as possible be written in plain and clear language to make it user-friendly.

1540

On to the specific sections. Part II, income replacement benefits, the responsibility to seek employment in disputes: Under this section, where a person received a notice from the insurer that the amount of weekly benefit is to be reduced and the person disputes the reduction, the insurer shall continue to pay the full amount of benefit until the dispute is resolved.

We recommend that before proceeding to the formal mediation-arbitration procedure, an informal procedure be established to deal with the concerns of the parties.

Part II, income replacement benefits, amount of benefit: "The weekly amount paid to a person under this part shall not exceed \$1,000." Under the present Ontario motorist protection plan, a person wishing to provide income replacement higher than \$600 weekly is entitled to buy extra layers of income replacement to a weekly maximum of \$1,050. CAC (Ontario) believes the \$600 limit plus the privilege of buying further protection should be left in place. We do not believe it is fair to ask lower-income wage earners to pay increased premiums to support high income earners.

Part II, income replacement benefits for care givers: This section appears to have answered the concerns of CAC (Ontario) by phasing out the benefits for injured care givers over the age of 65 rather than abruptly discontinuing them.

Part III, education disability benefits, lump sum benefits: Subsection 15(3) states, "If the accident occurred before the person attained the age of sixteen years, only one lump sum education disability benefit is payable under this section after the person attains the age of sixteen years." Yet the amount of the education disability benefit under clauses 15(1)(a), (b) and (c) is \$2,000 for each year of elementary education that the person is unable to attend or successfully complete as a result of the accident, \$4,000 for each year of secondary education and \$4,000 for each semester of post-secondary education to a maximum of \$8,000 in any one year. This regulation has some ambiguity, and we recommend that the wording be reviewed.

Subsection 15(2) states, "A person who was sixteen years of age or more at the time of the accident, is entitled to lump

sum education disability benefits of not more than (a) one year...(b) one year...(c) one year."

This appears totally unfair. The weekly benefit will of course provide for a minimum standard of living while a student is disabled but in no way will provide compensation for the years of lost income he would have received had graduation taken place on schedule. CAC (Ontario) recommends that this limitation be re-examined.

Temporary return to education: This is a provision that will be of great benefit to injured persons.

Part IV, care giver benefits, entitlement to benefits: This section states, "No weekly care giver benefit is payable to a person under this section for the first week of disability." CAC (Ontario) finds this unacceptable. When a care giver is unable to care for a child or incapacitated adult, care for these people must be replaced immediately, not one week later.

As Mr Justice Coulter Osborne insisted in his report: "This benefit will acknowledge the need for immediate compensation for those responsible for children. When a person having responsibility for child care in particular is injured, the system must respond quickly. For this benefit there should be no waiting period."

CAC (Ontario) has stressed this in previous submissions and continues to see it as vitally important.

Part V, other disability benefits: CAC (Ontario) has made reference earlier in this submission to the first week of disability and would reiterate the same concerns with respect to this section.

Part VII, supplementary medical benefits and rehabilitation benefits: We note transportation to and from treatment sessions is to be provided for, including transportation for an aide or attendant. This is a good provision.

We presume that the expense for an attendant's transportation would only be reimbursed if a proper receipt is submitted. In the case of a friend, neighbour or family member driving the injured person to and from the sessions and perhaps staying with them during the treatment, a receipt such as that given by a taxi driver or an ambulance driver would not be available.

Regulations must be designed in such a way that these volunteer drivers can be reimbursed for their out-of-pocket expenses in a manner that does not invite abuse. This could result in two things: better public relations and, most likely, decreased transportation costs as well as paperwork.

On to part X, the death benefits: We note that these have been raised to the levels CAC (Ontario) approved at hearings on no-fault insurance held by the Ontario Automobile Insurance Board. CAC (Ontario) supports this.

Part XII, compensation for other pecuniary losses, house-keeping and home maintenance expenses and expenses of visitors: CAC (Ontario) feels that this is too open-ended and will be subject to abuse.

Part XIV, election of benefits: This is a good provision that spells out, "If a person does not elect which benefit he or she wishes to receive...the person shall be deemed to have elected the highest weekly benefit." This provision will be of great assistance to consumers and should foster a positive response.

Part XVI, collateral benefits: This section in effect makes the auto insurer the payer of excess insurance, while a claimant's

individual accident and disability insurance becomes primary. It continues the same inequities that have existed under previous regulations.

As stated in previous submissions, CAC (Ontario) believes that automobile insurance policies should be made primary payers. If a consumer has taken the precaution and gone to the expense of providing for replacement of their own income, or whose employer has provided for income continuation or sick leave, perhaps in lieu of a higher wage, the insurance consumer should be entitled to receive the same benefits from their automobile insurance policy as any other person.

Part XVII, indexation, the weekly benefits: We recommend that benefits now set at \$185 weekly be indexed in relation to the yearly cost-of-living index to avoid this amount becoming outdated and unrealistic. We believe this is particularly important for persons over 65 receiving their retirement benefit because they have few opportunities to increase their income.

This concludes our remarks on the draft regulations. We would just like to comment briefly on the right to sue for non-pecuniary damages, as outlined in subsections 267(1) and (2).

It has been the official position of CAC (Ontario) to support no-fault, government-run insurance which precludes an individual's right to sue for non-pecuniary damages. As of this date that position has not changed.

On behalf of CAC (Ontario) we thank this committee for allowing us to make this submission.

1550

The Chair: Mr Mancini, three minutes.

Mr Mancini: I want to thank the Consumers' Association of Canada, Ontario branch, for its very thoughtful presentation this afternoon. I believe you made a couple of points I've been trying to make over the course of the debate regarding this particular legislation, Bill 164, which I consider to be regressive.

You stated in your brief on page 2, "It is necessary to try to keep premiums as affordable as possible, while maintaining adequate benefits for those unfortunate ones who suffer injury on the road." I think and I believe that sentence in itself explains what insurance should and ought to be: as much benefits as possible for the buying public at an affordable price.

I think you might agree with me if I said consumers today have maxed out on affordability as far as insurance is concerned and I would hope you would agree with me when I will say that any unnecessary increase in premium is going to have an adverse affect on families, on individuals and on the economy generally.

I was wondering if you were aware that the increase that the government has already acknowledged will take place because of this bill, using its own statistics, the Mercer statistics—those statistics tell us that globally a 4.5% increase in rates turns out to be \$185 million, if I'm not mistaken, taken right out of the pocketbooks of Ontario families and individuals. That is more money than all of the hospitals got last year.

I was wondering if you thought, since you represent consumers, if you believe—using the government's statistics, not the others, which indicate it could be \$568 million—that the

exchange is in fact fair and balanced. Do you think Bill 164 is worth the \$185 million that will be extracted from the consumers?

Mrs Helen Anderson: It's pretty hard for us to say yes or no to that because we don't have the research capability to look at the figures or estimate what the insurance companies are going to make, but we agree with you that affordability is one of the main purposes of any legislation for insurance for consumers.

When they mentioned that 80% of the people on the roads have no accidents, and a lot of them have never had an accident, like my husband in 50 years of driving, it comes hard every year to shell out more and more and more for presumably no benefit. Mind you, we're glad that we don't have to take one of those benefits, but it still comes hard to pay an increase. That's why we recommended in here two things.

We recommended going back to the \$600-a-week income protection, with the option of buying from an insurance company extra layers. The reason we say extra layers rather than buying disability income is because the disability, as someone also noted, as well as we do, is taken first, so that your own disability insurance would be first payer and then the auto insurance would be second payer or excess payer. So we recommend that you can buy, as the OMPP policy did provide for; people could buy extras over the \$50,000 if they wanted to.

The Chair: Mr Mancini's got a 10-second question here. This'll be a first.

Mr Mancini: Was your organization consulted by the government prior to the introduction of Bill 164?

Mrs Anderson: I'm sorry. "Insulted"?

Mr Mancini: Was your organization consulted by the government before it introduced Bill 164?

Mrs Anderson: I don't believe so.

The Chair: Mr Tilson.

Mr Tilson: Different groups seem to be advocating the acquisition of extra insurance. I guess it can be said that not all of us can afford to purchase add-on insurance and that we look at the principle of innocent accident victims who are driving along, minding their own business, and all of a sudden they get into these terrible situations.

OMPP took a lot of their rights away. The rates did not go down; they stayed the same, although some insurance companies are saying they're going down slightly. Now we have an even worse system that's coming along in which the insurance companies are guaranteeing rates are going up because of these increased benefits. I guess it's fine to say that it would be nice to buy added insurance but, really, can we all afford that?

Mrs Anderson: May I comment on that? A person getting \$1,000 a week out of this plan would have to have an income, we've estimated, of roughly \$90,000 in order to have a net income of \$50,000. Persons between, say, \$50,000 and \$90,000 I don't consider poor. I think they're quite able to buy extra amounts and I don't believe that it would be very costly. I think the insurance companies would be able to figure that out and it wouldn't be a lot of money. I'm afraid I can't agree with you on that one.

Mr Tilson: I guess the difficulty is, of course, that's assuming that no one is going to improve himself, that a young person or a person who's changing jobs is not going to change his income, that he's going to stay at the same level for the rest of his life. I think we could debate that issue, and you're the first of the groups that are talking about that, and I anxiously look forward to hearing more thoughts on it, because I have reservations.

Mrs Anderson: Can I just mention that the average weekly wage—I don't know what that equates to in an annual income, but Statistics Canada did say that the average annual net income in 1991, I believe, was around \$27,000. If that's average, that means there's an awful lot of people earning a lot less than that, and we'd hate to see them having to pay premiums to support people who are earning from \$50,000 to \$90,000 a year.

The Chair: I've got to go on to Mr Owens.

Mr Owens: I just very quickly want to gently correct the record. Mr Mancini asked the presenters whether the consumers' association was consulted during the preparation of the bill, and according to our records the consumers' association was consulted.

Mrs Anderson: I'm sorry. I thought Mr Mancini said "insulted."

Mr Mancini: You know something? I could believe both.

Mr Owens: We also appreciate the fact that you're not insulted as well.

Mrs Anderson: Mr Chairman, may I correct the record then? We were definitely consulted.

Mr Ward: You weren't insulted?

Mrs Anderson: We were not insulted, not at all.

The Chair: Okay, fine. Mr Klopp.

Mr Mancini: Do you think you were insulted now?

Mrs Anderson: No, not yet.

The Chair: Mr Klopp, did you lose your voice?

Mr Klopp: Yes, sort of. Thank you for being here today. Your opening comments struck me too, trying to get a balance between premiums, and you mentioned even yourself personally that you're lucky you haven't been in an accident for a number of years and, knock on wood, I hope you won't be.

One of the things I guess that I as a younger person with a family—it seems I'm taxed and insured to death. If I wouldn't have any insurance premiums, I'd probably have a lot of money, but at the same time tomorrow morning I might run into something.

Under the numbers that I've been told in our own government study—and we had a consultant who consulted with the insurance companies, plus advocates and groups that wanted their cake, and the insurance company wants its cake too, and then associations like yourself that try to make a balance also, and I think we did a fair align.

We increased some things but some things had to give, and we've even said that premiums could go up somewhere in the neighbourhood of 4.5%, although we're increasing benefits a lot more in a lot of areas. In fact, the number that I

was told we're comparing—and this is my question—was 4.5%, and we'll assume that, but on the whole we're getting about a 13% increase in total benefits. My question to you is, is that a reasonable fairness in your mind, to pay a 4.5% increase in premium maybe and get the 13% increase in benefits?

Mrs Anderson: I think so, yes.

The Chair: You made a statement then, Mr Klopp.

Mr Klopp: I asked the question, did she think it was fair? She said yes.

The Chair: Oh, I didn't hear it. Did you nod?

Mrs Anderson: I did say I thought that probably—

The Chair: Okay, fine. I didn't hear it.

Mrs Anderson: I don't think anyone here would object to paying injured people what they need. We'd all say: "Thank you very much. There but for the grace of God go I." I would like not to have to be in that position and I would be willing to pay 4.5% more if it would help that person out. I don't think everybody, though, would be willing to pay enormous sums every year.

The Chair: I'd like to thank you for coming before this committee with your advice.

This committee will recess until 4:30. The subcommittee members will meet in the clerk's office for a subcommittee meeting. Also, the members will notice that the Ontario Medical Association, which was to appear today, cancelled out but has a written brief that has been handed out to all the members.

Mr Mancini: We'll be convening at 4:30?

The Chair: At 4:30 we'll reconvene here.

Mr Mancini: For whom?

The Chair: We've got the Board of Trade of Metropolitan Toronto on at 4:30.

The committee recessed at 1602 and resumed at 1629.

The Chair: We've just finished our subcommittee meeting. We've come to an agreement that we'll be in the Amethyst Room, 151, on Wednesday and Thursday and we'll be going by the schedule. There have been some different slots filled. Some presenters have cancelled, so we've filled all the slots and there'll be a new list from the clerk tomorrow. The day we're going to be hearing for the day we missed will be on February 9 here in Toronto, plus there were a few more slots that were filled in by the subcommittee. I think that's everything, so all business has been looked after.

I know Mr Mancini just can't wait to drive up here on Sunday night to hop a plane for Thunder Bay. He better have running shoes on between planes, because we just fly in for one hour and back out again, and you should get a good night's sleep before we get into committee. I guess on Thursday night, you should get well rested because we'll be here until 10 o'clock in the Amethyst Room. So if people have schedules back home, maybe they better cancel.

Mr Tilson: Mr Chairman, on a point of order: I've noticed that Mr Kormos's name has appeared at this committee. He's not a member of this committee.

Ms Haeck: He appeared.

Mr Tilson: I also know he's sitting as Chair of the committee considering OTAB, but he seems to drop into this committee periodically. I guess I'm just looking at the rules of this committee. As I understand the rules, any member of the House can appear at a committee and if recognized by the Chair, can speak. I have a little trouble with the impression that Mr Kormos has joined the Progressive Conservative Party. I can assure you he hasn't.

The Chair: Maybe I can make some clarification here. If you remember the last night of the House sitting, I was very insistent that I ask a question which I'd been waiting four weeks to ask. I went over and asked Mr Bradley if I could sit in his chair and ask a question from the Liberal side. Mr Elston said, "Sure, it's all right with me, being the House leader," and Mr Bradley stepped out of his seat. I sat in his seat and when it came time for the Liberals to ask a question, I stood up. At that time, the Speaker was a little bit flabbergasted as to what I was doing on that side, but the thing was that I wasn't in my seat and I don't belong to the Liberal Party. The Speaker did not recognize me. This would be the same thing. Whether Peter Kormos has his name down there really doesn't mean a damn thing.

Mr Tilson: I don't want to start recognizing how this place works. It probably would be best that I don't. I will say, though, that I have a problem with the impression that Mr Kormos is sitting next to the Progressive Conservative caucus. He's a member of the New Democratic Party. The government party is on that side and that is where he should sit. Mr Chairman, I have no problem with him addressing this committee or speaking to this committee as a member of the government and the New Democratic Party, if so recognized by you. I do have a problem with him being identified with the Progressive Conservative caucus.

The Chair: Mr Harnick, would you turn it over? Mr Kormos isn't here. I'll have to tell him where to shove his name, maybe shove it to the other side. Just flip it over right now.

I think it's important also, because if he is sitting, he should be sitting on the other side. He's welcome to sit on the other side. These are the normal procedures that go on here in committee. Maybe the clerk can do an explanation—he had the book here with all the rules and regulations and he had a little tab on it for me—that Mr Kormos, being recognized by the Chair, can sit on the government side.

If I can get to Mr Kormos to ask a question, I will. The thing is that I haven't even got to half the committee members who are sitting here. As you know, with the length of time we wind up getting for questions, we're lucky if we get one question. Someone who is not a member of the committee I don't think should be above the committee members, but if there is enough time, I will recognize Mr Kormos and let him ask a question.

Mr Harnick: With respect, Mr Chair, I think you would be advised to read what the standing orders say. It's my understanding that the standing orders say any member of the Legislature is considered a member of the committee and is able to participate in the committee except to the extent that he can vote on any matter. Quite frankly, I'm concerned

that you're going to try to set a precedent here that could be detrimental for many members.

The Chair: I'm reading standing order 126. What we'll do is run over a little past five, since we're eating a little bit of time here. It says, "Any member of the House who is not a member of a standing or select committee may, unless the House or the committee concerned otherwise orders, take part in the public proceedings of the committee, but may not vote or move any motion nor be part of any quorum." I think we all understand that quite clearly.

The other part of Mr Kormos sitting is that the Conservative Party give him its time. I would like to wind up getting a ruling from the Speaker on that, if you don't mind.

Mr Tilson: Wait a minute. I don't even want Mr Kormos sitting with the Progressive Conservatives, let alone having our time. If he's going to have time on this committee, he has the time of the government; he doesn't have the time of the Progressive Conservative Party.

The Chair: I just wanted to find that out.

Mr Tilson: Well, it's been clarified.

The Chair: Okay, fine.

Mr Harnick: Mr Chair, on a point of order as well: He is a member of your caucus. I would think that if he's sitting here, you would afford him the opportunities that any other member here should have, unless there's some particular reason you don't like what he's saying and unless there's some particular reason your caucus has decided to muzzle him. But the fact of the matter is—

The Chair: I don't take that—but Mr Harnick—
Interjections.

The Chair: Maybe the other thing, and Mr Tilson—

Mr Harnick: May I finish, Mr Chair?

The Chair: Okay; go ahead.

Mr Harnick: It would seem to me that if Mr Kormos is a member of the Legislature, which he is, and he's a member of your caucus, which he is—

The Chair: Correct.

Mr Harnick: —he should be sitting here with your caucus and you should afford him the rights that any one of your caucus colleagues should have in this place.

The Chair: But the one thing, Mr Harnick, is that every chair was filled here. I know he went over and sat there, but the two of you were arm in arm, so I took it that you gave him permission to sit on that side.

Mr Harnick: I had no objection to Mr Kormos sitting beside me and I still have no objection to him sitting beside me, but I think it's passing strange that Mr Kormos is being muzzled by his own colleagues, and I think—

The Chair: I'm sorry—

Mr Harnick: May I finish, please?

The Chair: Go ahead.

Mr Harnick: I think—

Ms Haeck: Point of order.

Mr Harnick: No, I'm speaking on a point of order.

The Chair: No, wait. Let Mr Harnick finish.

Mr Harnick: I'm speaking on a point of order right now.

Ms Haeck: You've been known to interrupt others.

Mr Harnick: If you read the standing order you just read, it said the committee may permit that particular individual to participate, and if you're concerned about that and you don't want him to participate, then I invite you to force the committee to a vote to say that Mr Kormos can't participate. As far as I'm concerned, I will vote in favour of Mr Kormos participating and you, his colleagues, can vote against it. It just shows what kind of caucus you people have.

The Chair: I would say, Mr Harnick, that if we had the vote right now, all the government members would not change anything, but he would be able to sit down with our caucus, because there's been no evidence to the effect that Mr Kormos could not participate. It's just that he came in here and sat down beside you. You're arm in arm with him. I just took it that you said: "Sit beside me. There's an empty chair. There are no chairs on that side." I'll go to Ms Haeck.

Ms Haeck: Thank you, Mr Chair. I am just somewhat concerned that this is a discussion that in reality should have occurred at the subcommittee hearing and we're taking away from some good testimony that the board of trade has to offer us.

The Chair: They'll get their extra time. They'll get their half an hour.

Ms Haeck: Thank you, Mr Chair. May I suggest we move ahead since time is a-wasting.

The Chair: Okay, we'll carry on.

Mr Owens: All this for the price of a subway token.

BOARD OF TRADE OF METROPOLITAN TORONTO

The Chair: Okay. I'm sorry, gentlemen, that I didn't welcome you first, but I wanted to get some family business done here first before we got into more witnesses. I'd like to welcome the Board of Trade of Metropolitan Toronto. We will start and we will have one half-hour; you didn't lose any time at all. We're waiting for your presentation. Before you start, would you identify yourself for the purposes of Hansard.

In the presentation, if you can leave some time at the end for the committee members, as you can see, they want to ask questions. If you can leave at least 10 minutes, at least three minutes per caucus, they would appreciate it. But it's up to you; you're the presenter. You can use your whole 30 minutes on your presentation. The one thing about your presentation is that what you don't cover will be part of your brief and will be included, so it's not that if you don't read it into the record, it doesn't get published. Okay? You may begin.

Mr Robert P. Hutchison: My name is Bob Hutchison. I'm the vice-chairman of the insurance committee of the Metropolitan Toronto board of trade. With me is Mr Lloyd Hackett, who is a past chair of that committee. He is currently risk manager at the T. Eaton Co. I am a partner at the law firm of Borden and Elliot.

We are representing the board of trade. We have tabled a submission, which I gather has been distributed. There is a brief summary of the board and its constituency attached to it. Just to remind the members of the committee, the board is a representative organization of businesses and individuals engaged in business in the Metropolitan Toronto area. It's the

largest organization of its kind in North America, and the submissions of the insurance committee are made from the point of view of the board membership itself.

The insurance committee, just so you will understand, is made up of persons who are familiar with the affairs of the insurance industry, representing brokers, buyers or insureds of insurance products, professionals, intermediaries, as well as underwriters themselves. I'd also like to emphasize for the committee the fact that the membership of the board is primarily buyers of insurance products and, for the context of this hearing, auto insurance coverages, and not necessarily sellers, although we do represent insurance companies that are board members.

1640

I referred to the fact that a submission was tabled which contains a summary of most of our submissions. I'd also like to point out that the board has taken a long interest in this subject, since the subject of auto insurance I guess raised its head most recently in 1984 and the adventures we've had since. We have met with government since that time, with the ministers responsible for this area, including recent meetings with the current minister and his staff.

I'd also like to point out, just by way of a general comment, that our comments are general. We are not insurance technicians and we will not be of much assistance to the committee in the in-depth, technical aspects of it. We are not actuaries and our comments, because of that, are necessarily general.

I'd like also to make it clear that my understanding is that this committee's mandate is to review Bill 164. Our position—and I think other people commenting and I hope the committee accepts it—includes general comments on the regulation itself, the benefits schedule. It's impossible to look at Bill 164 without considering the effects of the schedule.

With that introduction, I can summarize the board's position briefly. We are not in favour of the scheme proposed by Bill 164 or the benefits schedule from the point of view that we don't consider it's in the interests of the Ontario public in general. That conclusion is based on the aspect of cost, that this scheme will cost Ontario in general, and we're talking in general there. On the complexities of the proposals and their workability, the inequities—I use that generally and I can come back to that—of the proposals, and the general negative implications for Ontario as seen from beyond the borders of Ontario, we're concerned that Ontario is out of step with other jurisdictions, not only in North America but elsewhere, and that fact in itself will not be of benefit to Ontario and will hurt us in the long run in different and general ways.

This isn't to say that the board doesn't consider that amendments to the current auto insurance scheme in Ontario are not necessary, because we believe they are, and some of the particulars of that have been drawn to the attention of the minister's staff. But we do not believe that the scheme in general that's in force is fundamentally flawed and that it warrants a wholesale change of the kind that's proposed here, which has, apart from the negative aspects I referred to earlier, entailed what we consider to be a wholesale and disruptive change to auto coverages in Ontario.

That is, I guess, a summary of our position. What I'd like to do is refer to some of the main aspects of Bill 164 that this

conclusion is based on, as well as some of the aspects of the schedule as we have it.

The whole subject of third-party liability is a concern. We are concerned with the introduction of the right to sue for non-pecuniary losses. The feeling is that this proposal will necessarily increase costs, which aren't necessarily costs that ought to be incurred in an auto scheme in Ontario at this time. On the other side, the economic losses which the board considers are very important to address and have not been dealt with satisfactorily under the proposals are restricted and are inequitable for persons engaged in businesses. On the latter aspect, our suggestion is to go back to the verbal threshold of a permanent serious disfigurement or impairment that's in the current legislation.

We have raised a point with the minister's staff that in some respects may be technical, but I think it's important that it be dealt with, and that is the cap on non-economic loss. To an extent, this is a drafting matter, but we are not satisfied that proposed section 261.1 satisfactorily codifies the cap on non-pecuniary losses currently in force by the courts, pursuant to the Supreme Court of Canada's judgements in 1978, the trilogy cases.

Another aspect of the bill that is of concern, not only in this legislation but frankly in other legislation that the board has commented on, is the fact that the guts of this proposal are included in the schedule and are not included in the legislation, where we think they ought to be. Obviously, certain matters are appropriate for the legislation itself and certain matters are appropriate for only the regulations; they're too detailed and subject to change.

When you stand back and look at this legislation as a package, our concern is that the government is continuing—it's not just this government, but governments in general—putting the substance of policies as important as this in the regulations, where it's beyond the review of the Legislature, if you will, and also, in effect, beyond suitable in-depth public comment.

The bill, as it was first presented, contained the withdrawal-from-the-insurance-market provisions for all classes of insurance. We're pleased that the government has proposed amendments to that provision, and we urge that those amendments be supported and adopted.

This particular point was very important for the board of trade as a representative of businesses which are sensitive to how Ontario businesses and Ontario in general in any constituency is observed from beyond our borders. Again, I referred to that point earlier. The negative implications of that kind of legislation, of not permitting entities to leave a jurisdiction—it's one thing not to let them in, but not to let them out is completely unnecessary. It may seem like a minor point, and I think the minister almost indicated that in a previous meeting with us, but from a philosophical point of view and from the point of view of Ontario in an international community, it's critical. We're pleased to see that changes are proposed for that, and we urge that they be supported.

I'm going to turn briefly to the benefits schedule now. My first comment is one that has been voiced by a number of interest groups. The fact is that it's hopelessly complex and very difficult to follow. If it's difficult for people knowledgeable in the insurance industry to follow it and make sense of

it and make decisions on it, it can hardly be expected that the public is going to be able to deal with this scheme on a user-friendly basis. We consider that the decisions they have to make and ensure the victim has to make in terms of selecting options and coverages will be very difficult. Instead of making the product more accessible and understandable—it may be in a well-intentioned sense—I think the result is that we've made it less accessible and less understandable. That is another reason why our general approach is to amend and tinker with, to the extent necessary, the existing legislation and format of auto insurance, rather than introducing wholesale something that's unfamiliar and difficult.

1650

If there's one single aspect of the proposals that we're concerned about, it's cost. As I indicated, we're not actuaries; we can barely make head or tail of the fat actuarial reports that have been prepared by the various interested parties, including the government, the IBC and others. But all you have to do is read the conclusion to understand that the costs are going to be that way—up—rather than down or sideways. In our view, an increase of cost of coverage for this kind of a program is simply unsupportable and unnecessary at this time.

There shouldn't be any illusions that the cost will be borne by only one segment of the industry or the economy. It won't simply come out of the pockets of the insurance companies or the insured. The Ontario economy in general will bear these costs. Frankly, we don't think they can be justified in this economic climate, particularly for the product that's being proposed.

A further aspect of cost apart from the proposed benefits themselves is what we anticipate to be increased indirect costs in terms of the bureaucracy and administration required to administer legislation as complex as this. Experience has indicated time and time again that whenever something like this is introduced it's difficult. It's all-encompassing, because millions of Ontario people drive. The cost of that invariably will go up and will contribute to overall cost-inefficiency of delivering the product.

I mentioned the inequitable aspect earlier, and by that I didn't mean that things aren't fair. Providing greater benefits to people is fair in one sense. What we mean by "inequitable" is the fact that this kind of legislation allocates risks and benefits on an arbitrary basis rather than on commercial experience or underwriting insurance principles. To the extent it does that, it's not only inefficient but it's therefore inequitable to the economic interests of people who are affected by auto insurance, and that's a very wide range of the public.

We are concerned—and this is a point that is perhaps of interest to a segment of the insurance industry itself—that our information is that the reception by reinsurers, most of whom are offshore, out of Canada, is negative. The treaties that are being rewritten currently contain the opportunity to amend the coverages or terminate them in the event that this legislation comes into force. We can't predict what can happen, but the message that we are receiving is that the scheme will reflect negatively and, at the very minimum, result in increased reinsurance premiums which, in turn, will have to be borne somewhere in Ontario. We don't think it's necessary. We also think that community, being an international community, again will reflect negatively on Ontario as an economy

that ought now to be participating more, rather than less, in international commerce.

The last point we hope is a positive comment. The board, for a number of years, has advocated and encouraged other means of making auto insurance a safer, fairer product. The road safety initiatives announced by the government are supported by the board. We have reviewed them and encourage the government to proceed with them sooner rather than later. The beneficial effects in terms of cost recovery and reduction of costs in the auto insurance markets will be immediate. We'd encourage the government to pursue those.

Those, Mr Chair, are our comments. We'd be happy to answer questions to the extent we can, within our—

The Chair: Okay. We have five minutes for each caucus, starting off with Mr Tilson.

Mr Tilson: I was interested in your comments about trying to work with the existing system and I hope to hear more of that. I know our party certainly has never supported the threshold test that's put forward by Bill 68 or the Liberal test, the OMPP. But I guess it's a concern that we look at how long it took to establish the rules, the tort law, the pre-OMPP. We now see cases like Myer and Dalglish, who, incidentally, are coming to this committee; I understand Myer's solicitor is speaking in Windsor and Mrs Dalglish herself, I believe, is speaking on Thursday night. It'll be interesting hearing their thoughts.

But if nothing happens to Bill 68 there's certainly going to be some litigation. The insurance people are saying there may be a whole slew of cases which any new piece of legislation, particularly something like this that's changing the whole system of the law—in other words, Myer and Dalglish are probably the start, and the insurance companies are saying, "Give it a chance." I'd like their thoughts on that as opposed to simply saying that the words that are used in the current threshold test are not adequate. You talked about amending that test.

Mr Hutchison: We think we should amend it in the sense of leaving it as proposed in OMPP, as it exists now, because we think that if there's going to be recourse to tort that's where it ought to be, and frankly, that threshold is as good as any that we've been able to identify.

Mr Tilson: So you're agreeing with some of the insurance companies that are saying that the courts will ultimately tell us what that test means.

Mr Hutchison: Yes. They will anyway. No matter what test you write, it'll end up before the courts and we'll be going through the same exercise. As a general answer, though, to your question as to the existing system and whether we should be tinkering, our feeling is that the insurance industry and the Ontario public can't take any more of this footballing with insurance.

Mr Tilson: It'll take six years to define that test.

Mr Hutchison: It's just going on and on and on. Business—and we're representing general business constituencies—is cynical of the process, and it's time to put a halt to it. I'll also be frank with you that the board of trade did not take a position on fault or no-fault per se, and has not.

Mr Tilson: I have one other question, Mr Chairman.

The Chair: You've still got three minutes to go.

Mr Tilson: Thank you. And then Mr Harnick, I think, has a question.

There has been some mention of the erosion of the institution of OHIP, that Bill 164, because of the benefits and the way it's going to be set up, will erode the institution of OHIP, and then indeed OHIP could go bankrupt because of some of the provisions. Has your organization looked at that subject? Are you able to—

Mr Hutchison: No, we haven't.

Mr Tilson: Mr Harnick.

Mr Harnick: I was interested in your categorization of the board of trade as being primarily a business-oriented organization—correct?

Mr Hutchison: That's correct.

Mr Harnick: As opposed to a consumers' protection group or anything of that nature.

Mr Hutchison: As opposed to consumer protection. But just to clarify that, a good deal of our members are individuals, and business people are individuals who drive cars and have families and live in houses.

Mr Harnick: That's why I was struck—and really, I think you stated it very nicely—when, under the aspect of “inequitable,” you stated that “benefits are defined by classification of the insured rather than loss incurred, actual circumstances or the desire or ability of the insured to have greater or lesser coverage.” I think what you're saying there is that if people have income to protect they should be allowed to protect that income. Is that correct?

Mr Hutchison: That is correct.

1700

Mr Harnick: In other words, you don't subscribe to this idea of the government taking away economic rights or economic loss.

Mr Hutchison: Absolutely not. We recognize that there have to be some legislative parameters but they should be as flexible as possible to protect those economic interests.

Mr Harnick: I see. I don't know if you were here earlier, but we had an interesting discussion with one of the people who is the author of this. As a businessperson yourself representing a business—

Mr Hutchison: Author of which?

Mr Harnick: Of this Bill 164.

Mr Hutchison: Oh, I see. Okay.

Mr Harnick: We were told that someone who would be a student and rendered unable to complete his education and ever work because of his injuries would be entitled to, I think, \$391 a week for the rest of his life, indexed. Is that, in your estimation, an adequate amount of money to represent the loss of someone who could be productive in the workforce?

Mr Hutchison: I don't know whether the numbers are right, but probably not. We have had other examples raised to us, and I can't comment on the particulars of them, but a high-earning professional who gets knocked out suffers as does any high-earning individual.

The Chair: I'm sorry. We'll have to go on to Mr Phillips. I know I skipped you at first and went to the Tories.

Mr Phillips: Why are you going that way?

The Chair: Okay. You were supposed to be first but—

Mr Tilson: They always go backwards here.

Mr Phillips: I appreciate the comments on the costs and what not because that's one of my focuses, in that I have no idea where the NDP's priorities are now, none at all. They've said that hospitals can get no increased money: zero this year, next year, none at all. They've said they're going to have to raise taxes.

But here, even the most conservative estimate of increased cost to the taxpayers, this thing is going to cost a minimum extra \$160 million. In addition to the normal increases, this will be an incremental \$160 million, which is frankly a lot of money. If you look at some of the other estimates of people who've looked at it, they say it could be up to \$500 million of incremental premiums, so that's the range. They got the most conservative—the smallest number is \$160 million plus overheads up to \$500 million, and \$500 million, by the way, is like taking the sales tax up one half of 1%.

The reason I go through all of this is that somehow or other the NDP think this is in isolation, that somebody out there who doesn't pay taxes and that sort of thing is going to pay this. I guess my question to the board of trade is: In the environment that you see out there right now in terms of the public and what it's trying to deal with—I think normally we're looking at 1% increases in income, that sort of thing—do you see an incremental minimum \$160 million—by the way, I keep stressing that this is in addition to regular raises; this is just what this adds to it—having any impact on the economy of Toronto or Ontario?

Mr Hutchison: Any increased non-productive cost, which these costs are, will have a negative effect on our economy. It has to come from somewhere. It won't come out of the air. We're sitting in the middle, in view of your earlier discussion of who's on what kind of table. I don't know who to blame for it, but any proposal that increases the cost of a non-productive nature such as this is going to have a negative impact for business and what runs our economy.

Mr Phillips: It's going to be very interesting in the budget debate, as we head to it, that the government feels it can take, as I say, a minimum \$160 million out of the pockets of people to fund this. They said, “No, the hospitals aren't going to get any extra moneys.” They're fascinating priorities for me to watch.

The second question I have is just your comment about the image this gives Ontario in the international investment community. Again I'd be interested in the board's perspective of how things are right now in terms of investment coming to—I know you're Metro Toronto focused—but what the current impression of Ontario is. Is this something that we as a committee should weigh heavily or is it a relatively minor thing?

Mr Hutchison: We think it's very important from a kind of macroeconomic point of view from Ontario. We rely on foreign capital, and every other jurisdiction is venturing out and trading with the world. We see this kind of expensive legislation that's possibly out of step and unaffordable as

negative to the economic prospects of Metro to the extent it reflects Ontario in general.

The Chair: Time's run out; it's five after. Mr Owens.

Mr Owens: I have a quick question, then I'll turn it over to my colleagues. I wanted to thank you for your presentation as well as for your support on our proposed withdrawal amendment. While it was our view that the initial legislation may not have been as draconian as the industry felt, we want to demonstrate that we are listening and have gone forward with an amendment.

I'm pleased that you raised the issue of costs in your presentation. This afternoon George Cooke from the Insurance Bureau of Canada indicated in his presentation that we've set up a task force to deal with some of those cost issues and that in an interview that Mr Cooke did earlier in the week it was his view that our government again was hearing some of the concerns that you've raised with respect to cost.

Could you comment on our task force, and are you as a board of trade encouraged by the multiple partners that are on this task force and the role that they have to work through?

Mr Hutchison: A simple answer to that is yes, provided it's effective and provided that what's proposed or presented or submitted, whatever their mandate is, is taken into consideration and weighed in government policy.

Mr Owens: Thank you. Christel?

Ms Haeck: I was interested in hearing your comments about how this proposed legislation is going to affect Ontario in the broader marketplace. As part of my personal research for this committee—and I don't pretend to have it all memorized—I did in fact request and get details about other jurisdictions within a reasonable distance of the province of Ontario. I'm wondering, have you investigated the whole insurance industry to that extent yourself?

Mr Hutchison: Are you talking about other models like Quebec and BC?

Ms Haeck: Yes. Even the OMPP uses some models that were taken from Michigan, which we all have obviously a range of concerns or accolades for, but there is a range of things that are available within a number of states not too far from us which you make mention of, the fact that this would affect our market standing with the United States.

Mr Hutchison: I can answer that generally. I can't compare the systems, but from our point of view, the economy of Ontario is quite distinct from the economy of the Prairies, where they have programs, and BC, and even Quebec, for that matter, which is for various reasons isolated and isn't the international player Ontario is. Ontario's economy has been diverse, as opposed to the primarily resource-based economies of those jurisdictions, and we depend far more and we're far more in the view of other jurisdictions. You only have to watch Ontario's credit rating. Nobody hears about the credit rating of other provinces. Ontario is the economic guts of Canada and it's more important in context.

Ms Haeck: I won't in any way disagree with that, but I live in St Catharines, which is 10 miles away from the border, and New York is obviously the other side of it.

Then you have: "In New York a law capping physicians' services at 100% of the medical fee schedule for workers' compensation has produced overall premium savings of 10% to 12%. New York regulators are also investigating the cause of cost increases, such as overuse of new technologies," which raises the whole thing about medical fees, "the growing use of chiropractor services, which now account for 15% of personal injury protection."

You can go into New Jersey. Massachusetts is dropping its verbal threshold system and in fact coming into a bill for reduction of the amount accident victims can win in court.

The Chair: Question?

Ms Haeck: Have you looked at this and would you be prepared to look at what we're doing and really judge it in the context of what's happening in North America?

Mr Hutchison: We'd certainly be prepared to look at it. I think the caution is you can't look at those kinds of specific benefits in a vacuum. What we're looking at here is what this proposal is going to cost Ontario, and that's our concern.

The Chair: I'd like to thank you for coming before this committee. I'm sorry that you got detained 10 minutes to get started, but things happen like that the odd time.

This committee will be adjourned until 10 o'clock tomorrow.

The committee adjourned at 1711.

of being compensated by this scheme, they won't, because they'll be out of court. They won't be able to take the risk of going to court. That's the effect of a \$15,000 deductible.

Let me give you another example. These are examples which lawyers who practise in the field will tell you are a fair assessment of a person's damages. A 58-year-old man injures his ankle in a car accident. The ankle is broken. He has an operation and a good result obtains. He's left with a scar and he's left with the hardware in his ankle. Because he's older and he's not an athlete, he decides not to have the hardware removed and he puts up with the hardware in his ankle. He's got some moderate pain while running or walking long distances but, all in all, a fairly good recovery. The courts might very well assess that claim at anywhere from \$15,000 to \$22,000. Again, in that example, would that person take the risk of going to court for maybe \$5,000 or \$7,000 when it's open for a court to award \$15,000, \$17,000, \$20,000? Of course not. No one's going to take a case for \$2,000 or \$3,000 when they could end up being out of court, losing and being forced to pay the costs.

1050

A \$15,000 deductible is not going to have its intended effect. Let me state what the deputy minister said yesterday: "The reason for deductible is twofold: to eliminate the smallest claims, which are seen to burden the system, and as part of the overall balancing of cost in the system." In our respectful submission, a \$15,000 deductible will not do that. It will eliminate more significant and serious claims.

If they want to eliminate minor claims, then we submit that a \$7,500 deductible will accomplish that, because that will dissuade the minor claims which the system does not want to have before the courts. The three- and four-year were known as whiplash cases, soft tissue injuries to the neck or back. Those cases will be removed, because those cases range anywhere from \$7,500 to \$13,000 or \$14,000. Those people with those injuries, if that's what the system wants, won't be able to sue.

But by having a deductible which is too high, serious injuries will not meet the deductible, and people with serious injuries will be shut out of the system. To borrow a phrase used in libel law, it will have a "chilling effect" on those injured people, on those men, women and children throughout the province who have injuries such as broken arms, broken legs, fractured kneecaps and a wide variety of other fractures. If that's the intention of the Legislature, it is not going to be accomplishing that. If its intention is to get rid of minor claims, it will be getting rid of serious claims.

I've gone on about the problems which FAIR has. It is fundamentally important that government be reminded of its promise it made to injured victims. What Bill 164 does, in our opinion, is far worse than the Liberal plan, and there are no more vociferous critics of that plan than FAIR. At least with the Liberal plan, with all its problems—and it is a bad, flawed plan—people who were seriously injured had rights to economic loss: the quadriplegic, the brain-damaged person; if it wasn't their fault, they knew they would have a measure of dignity provided to them because of the rights to sue for economic loss.

This plan, if implemented without any change, is far worse than the Liberal plan. Members of the committee I

hope will be aware of that, because this is the government which has always sided with the innocent victim. This is the government which was in favour of rights for innocent victims, which looks after the little people. This plan will not accomplish that. You may criticize us as lawyers with self-interests, but hear us out. We've been marginalized, defined and delegitimized by every political group, but what we say is right and what we've had to say about the threshold, the Liberal plan, has been right.

Those conclude the comments I have. I know Professor Carr has some comments he wishes to make before the committee.

Dr Jack Carr: I'm going to be very brief. We want to leave time for questions, and I've actually appeared in front of a similar committee, in front of the OMPP.

Let me just state my particular biases in this particular matter. I'm an economist and I've taught at the law school at the University of Toronto, and I've done research since 1972 on this issue. In 1972 I published an article called *The Shaky Case of No-Fault Automobile Insurance*. No-fault automobile insurance just came into North America in 1971 in the state of Massachusetts; that was the first time it was introduced, and I was interested in it right away. I was against no-fault then and I'm against it now. Let me state my biases.

But having said that, when I talk to colleagues in the law school—and there are some colleagues who in fact are in favour of no-fault. If you talk to people in favour of no-fault—and there are people in favour of pure no-fault or threshold systems or partial no-fault—the people in favour of partial or threshold no-fault will tell you that an inviolate principle is that you always allow people to sue for economic loss, you always allow people to sue for excess economic loss.

And that's been history: Every US jurisdiction allows suits for economic loss. In Michigan, which was sort of what the OMPP was modeled after, which is probably the most stringent of no-fault systems in the United States, whether you pass the threshold or not, everyone has a right to sue for economic loss. It makes no sense to take away the rights of people to claim full recovery. Why should innocent people injured in an accident be out of pocket?

If you're injured in a boat accident, if a drunk hits you on Lake Simcoe in a boating accident, you have rights to sue that individual and get full recovery for economic loss. If you put that same drunk on Highway 401 going to Lake Simcoe and he hits you there, you're out of luck, because then you no longer have rights to sue for economic loss. To put it mildly, it makes no sense.

The argument is that we're going to save on legal fees: We don't have to prove fault; we're going to give statutory accident benefits. The reason I say it makes no sense in the context of Bill 164 is that Bill 164 restores the right to sue for pain and suffering, so you're already going to have a court case where you have to establish fault, you're going to have to hire a lawyer, you're going to have to have fault just for pain and suffering. If you're going to have that court case anyway, why not allow suits for excess economic loss?

In fact, my colleagues in the law school favouring no-fault say, "Maybe pain and suffering isn't as real a

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Publications



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ISSN 1180-4386

Legislative Assembly of Ontario

Second Intercession, 35th Parliament

Official Report of Debates (Hansard)

Wednesday 27 January 1993

Standing committee on finance and economic affairs

Insurance Statute Law
Amendment Act, 1993

Chair: Ron Hansen
Clerk: Tonia Grannum

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Journal des débats (Hansard)

Mercredi 27 janvier 1993

Comité permanent des finances et des affaires économiques

Loi de 1993 modifiant les lois
concernant les assurances

Président : Ron Hansen
Greffière : Tonia Grannum

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Wednesday 27 January 1993

The committee met at 1037 in room 151.

INSURANCE STATUTE LAW AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LES LOIS CONCERNANT LES ASSURANCES

Consideration of Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters / Loi modifiant la Loi sur les assurances et certaines autres lois en ce qui concerne l'assurance-automobile et d'autres questions d'assurance.

The Chair (Mr Ron Hansen): Good morning, or just about good afternoon. We're getting close to that. Sorry for the inconvenience. This is the standing committee on finance and economic affairs. This is day 2, Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters. Starting off a new day, I see we have quite a few people sitting in the audience and I'd like to start off on who the committee is and what ministry you're with, starting off with Mr Ward.

Mr Brad Ward (Brantford): Brad Ward, MPP for Brantford and parliamentary assistant for Industry, Trade and Technology.

Mr Paul Klopp (Huron): Paul Klopp, MPP for Huron.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Paul Johnson, MPP for Prince Edward-Lennox-South Hastings and parliamentary assistant to the Treasurer, Floyd Laughren.

Mr George Dadamo (Windsor-Sandwich): Good morning. I'm George Dadamo. I'm the MPP for Windsor-Sandwich and the parliamentary assistant to the Minister of Culture and Communications.

Mr Remo Mancini (Essex South): Remo Mancini, MPP, Essex South.

Mr Gerry Phillips (Scarborough-Agincourt): Gerry Phillips, member for Scarborough-Agincourt.

Mr Chairman, I think it's unnecessary for the members to say who they are parliamentary assistants for. I would hope that we're here representing the Legislature. We're not here representing ministries. If they need it for their own ego, that's fine, but as a matter of principle—

Mr Dadamo: Speaking of ego.

Mr Phillips: As a matter of principle, Mr Chairman, these committees seem to be turning into government and opposition and we are losing the role that we're supposed to be playing. If Mr Kormos chooses to come in this afternoon and you won't let him sit with his colleagues and he has to go on "the opposition side," that's a further indication these committees are losing their role.

I raise that, Mr Chairman, because you said "what ministries they're with." If they're here representing ministries, I'd like to know that.

The Chair: I thought that Mr Mancini would say he's the auto critic. Okay, fine. We won't do that any more then, Mr Phillips.

Mr Phillips: Well, they can do it if they want.

The Chair: Mr Tilson.

Mr David Tilson (Dufferin-Peel): My name is Mr Tilson.

Mr Stephen Owens (Scarborough Centre): And he represents no one.

Mr Phillips: I hope he represents the public.

Mr Tilson: I represent Dufferin-Peel and I'm in opposition to Bill 164.

Mr Charles Harnick (Willowdale): Charles Harnick, Willowdale, and I hope we can get this going now that the NDP's decided that we can sit in this room and have this televised, and we're only about half an hour late.

The Chair: And finally, the people at the front here.

Ms Pat Girouard: Pat Girouard with Hansard.

Mr Robert Nishman: Rob Nishman with legislative research.

Mr Harnick: And you were the people who wanted these introductions.

Clerk Pro Tem (Mr Franco Carrozza): Franco Carrozza, the clerk.

Mr Owens: Steve Owens, MPP, Scarborough Centre, as well as being the parliamentary assistant to the Minister of Financial Institutions.

Ms Julia Bass: I'm Julia Bass. I'm with auto insurance review.

FAIR ACTION INSURANCE REFORM COMMITTEE

The Chair: Okay, since we've introduced, we'd like to find out who our first presenters are. They're the Fair Action Insurance Reform Committee, known as FAIR, and we have a Mr John Scott and his associate. If you don't mind, identify yourselves for the purposes of Hansard. Since we started late, you still have one half-hour and we'll be running about 40 minutes behind all morning. Okay, if you don't mind starting, and if you can leave some time at the end for questions from the members of the committee here.

Mr Richard Bogoroch: Let me just correct something: My name is Richard Bogoroch. I appear on behalf of FAIR, and with me is Professor Carr, who'll be here to answer whatever questions members of the committee have.

Let me state at the outset that FAIR is very much opposed to Bill 164. In our submission, copies of which

have been provided to you, we have outlined our objections to it. I've been informed of what other people who have testified before this committee have said, and I will not repeat what's been said yesterday. I'm going to try and do what many lawyers have difficulty in doing: I'm going to be brief and I'm going to confine my comments to the parts of the bill which we have deep difficulty with.

Let me state at the outset that the law is unfair, it's unjust and it's cruel. I'm going to tell you why it's cruel. I'm going to also tell you what solutions FAIR has.

Fundamentally, what this law does is strip away the rights of innocent accident victims to sue for economic loss. Economic loss is fundamental. No jurisdiction in North America which has either a threshold or a partial no-fault scheme has ever stripped away economic loss. In fact, how fundamental it is and how important it is to innocent accident victims has been underscored by the comments of ARCH, which appeared yesterday, by the Metro chamber of commerce and the Advocates' Society. Diverse groups with different political objectives and agendas and different views on this legislation all condemned the legislation for stripping away the right to sue for economic loss.

What is so important about economic loss? Let me give you an example, and this may have been discussed yesterday before the committee. You have a breadwinner who's 35 years of age with two young children and a spouse. He's earning \$35,000 a year. He has no other insurance, and he is killed by a drunk driver. All that his spouse and children will get under this legislation is \$120,000; \$120,000 for ever to compensate them for the loss of lifelong support.

What's going to happen after three or four years when that money is used up? More than likely, that family in the example I've given will be required to take social assistance. The effect of the bill in the example I've given will force young families to be supported by the taxpayers because the law does not provide for economic loss. That example is in our brief, and I invite you to look at our brief.

That's the effect of Bill 164. Is this government intending to shift the responsibility from the insurance industry to the taxpayers of this province? Are families that have a father or mother who's a breadwinner and is killed in a traffic accident going to be reduced to public assistance because of this inadequacy and their inability to obtain compensation for economic loss? No one anywhere in North America, no Legislature has ever done that.

Let me give you another example, and we heard this yesterday too from the representative of the Advocates' Society. You have a student who is 16 or 17. He wants to be somebody. He's interested in a trade, a career. He wants to be a plumber. If he meets the apprenticeship requirements, he should be guaranteed a good and decent living for his family. If at the age of 17 he's badly brain-damaged in a car accident such that his career, his dream, is taken away from him, this legislation will, by the time he's 30 years of age, start paying him approximately \$381 a week, \$20,000 a year, to somebody who had a good career taken away because of a car accident.

Mr Mancini: Is that \$320?

Mr Bogoroch: That's \$380 a week. This is the effect of the legislation: to destroy the hopes and aspirations of young people, to destroy families, because they do not want to allow for economic loss. It's unbelievable that this government, which stood shoulder to shoulder with injured persons while it was in opposition and which railed against the Liberals' plan, now is trying to strip away the right to economic loss.

Many of us will recall that Bob Rae attended a rally at the Sheraton Centre with members of the disabled community condemning bitterly and in the strongest possible terms the OMPP, the current plan.

Mr Ward: The Liberal plan.

Mr Bogoroch: The Liberal plan. Thank you. "If we're elected, we'd give back the right to sue. We care about injured people." Now we see what he's doing. It's a dreadful, dreadful turn of events.

But there is a solution to it; there's a solution, if this government wants to listen. FAIR Committee is proposing an add-on: that people be given the right to purchase excess coverage for economic loss. This was discussed yesterday, but it's fundamentally important and would involve a simple amendment to the legislation to allow people, to allow families, to make sure that in the event the worst scenario happens—the breadwinner or loved one is killed in an accident and the means of support is taken away—a simple add-on, the right to purchase excess coverage for economic loss, will be available. It's not mandatory. The legislation would simply allow that if people want it they can purchase it from the insurers.

We have today what is known as standard endorsement form 44, which provides for underinsured coverage or excess coverage. It's about \$10 or \$15 a year. It ensures people that in the event they are injured or killed by a person who doesn't have adequate insurance, their own insurance company will provide the difference. It's called excess coverage. It's simply an additional layer; it's very modest. FAIR feels very strongly that if this government wants to restore its promise to the people of Ontario, one of the ways it can do that is by providing this add-on.

Now, economic loss is not the only objection we have, and I have a very brief time to talk about FAIR's position. Let me say another thing which we're concerned about: We're concerned about the deductible. The deductible of \$15,000 is simply too high. As a trial lawyer and as a group of trial lawyers, we know that a \$15,000 deductible in effect will scare away, frighten, dissuade people with cases worth \$20,000 to \$30,000. Here's why:

A 12-year-old boy is injured in a car accident and breaks his arm. He has to have an operation. He has to have some plates and hardware put in. It's called an open reduction. He's left with a scar, but he's got a good result, he's got good function. That case, any trial lawyer will tell you, could be worth anywhere from \$15,000 to, say, \$25,000. Let's say it's worth \$20,000. Does this family want to take the risk of going to court for \$5,000, when a judge or a jury can say, "Maybe it's \$15,000," and get nothing and then have to pay all the costs? No. So instead

of being compensated by this scheme, they won't, because they'll be out of court. They won't be able to take the risk of going to court. That's the effect of a \$15,000 deductible.

Let me give you another example. These are examples which lawyers who practise in the field will tell you are a fair assessment of a person's damages. A 58-year-old man injures his ankle in a car accident. The ankle is broken. He has an operation and a good result obtains. He's left with a scar and he's left with the hardware in his ankle. Because he's older and he's not an athlete, he decides not to have the hardware removed and he puts up with the hardware in his ankle. He's got some moderate pain while running or walking long distances but, all in all, a fairly good recovery. The courts might very well assess that claim at anywhere from \$15,000 to \$22,000. Again, in that example, would that person take the risk of going to court for maybe \$5,000 or \$7,000 when it's open for a court to award \$15,000, \$17,000, \$20,000? Of course not. No one's going to take a case for \$2,000 or \$3,000 when they could end up being out of court, losing and being forced to pay the costs.

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A \$15,000 deductible is not going to have its intended effect. Let me state what the deputy minister said yesterday: "The reason for deductible is twofold: to eliminate the smallest claims, which are seen to burden the system, and as part of the overall balancing of cost in the system." In our respectful submission, a \$15,000 deductible will not do that. It will eliminate more significant and serious claims.

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Let me just state my particular biases in this particular matter. I'm an economist and I've taught at the law school at the University of Toronto, and I've done research since 1972 on this issue. In 1972 I published an article called *The Shaky Case of No-Fault Automobile Insurance*. No-fault automobile insurance just came into North America in 1971 in the state of Massachusetts; that was the first time it was introduced, and I was interested in it right away. I was against no-fault then and I'm against it now. Let me state my biases.

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In fact, my colleagues in the law school favouring no-fault say, "Maybe pain and suffering isn't as real a

cost as economic loss." I don't agree with them, but that's their argument, and the argument in the law and economics literature is that if you're going to take away, if you want to save costs in the system, if that's the argument, then you take it away from pain and suffering, you don't take it away from economic loss.

I urge you to read our brief and look at a number of examples. These are just a few of a large number of people: infants, students, senior citizens, young workers starting out in their career. There's a whole slew of people who are left out, who fall between the cracks. The government tried to fill in as much as possible, but you really can't fill in all the cracks.

You really need to give people the right to recovery for full economic loss. If you're going to do one thing, allow recovery for full economic loss. That's the most important thing. There are jurisdictions which take away the right to sue for pain and suffering. There are no jurisdictions that take away the right to sue for economic loss.

This is something which should be dear to the NDP. The argument is that you want to look after innocent accident victims, that people should not be out of pocket. There are some cynical commentators who claim that the reason you have this system which doesn't seem to make sense, a system which gives rights to sue for pain and suffering but not for economic loss, is because the NDP made a pledge to restore the right to sue and didn't know how to keep its pledge, and what it did is it put a fig leaf on. After the government came into being, it decided to abandon its pledge, abandon its promise and put on this fig leaf, this minor fig leaf, of suing for pain and suffering, with a deductible. It's so the government can claim it fulfilled the pledge.

If you look at it in terms of cost, not in terms of the number of people but in terms of taking away the right to sue from quadriplegics and paraplegics—something the Liberals wouldn't do—if you look at how much cost you take out of the system by taking away the right to sue for economic loss and adding in the right to sue for pain and suffering, on net you're still taking away 15% of total cost. You're still reducing total cost.

That means that as far as economics go, the NDP has really not fulfilled its promise, an important promise and a promise which goes to the heart of NDP constituencies: to the worker, to the student, to the senior citizen. They're the people who in fact are going to lose.

I urge you to consider the aspects of the bill, to consider who's hurt and to at least restore in some measure the rights of accident victims to claim full compensation for economic loss. Let's open that up for questions.

1100

The Chair: Mr Mancini, three minutes.

Mr Mancini: Three minutes. You're very generous today, Mr Chairman.

First of all, I thank both gentlemen for their brief. I want especially to thank you for highlighting how important economic loss is. While I understand that you did not support the Ontario motorist protection plan, I do believe you have articulated very clearly this morning why the Ontario motorist protection plan included economic loss

and what it means to factory workers and other wage earners, what it means to students and to other people.

I've done some calculations here. Based on the government's own statistics, Mercer's own statistics, which have been challenged as being on the low side, we have concluded that Mercer's plan—the government's plan, the parliamentary assistant's plan—will increase rates in Ontario to the consumer by 4.4%. That's the low. That means Ontario consumers will pay \$200 million more in insurance rates, more money than the government has given to all of the hospitals in this province. Do you think the consumers are getting any value for that \$200 million?

Dr Jack Carr: The consumers are going to pay more. How much depends on which actuary you believe.

Mr Mancini: I'm using the government's actuary. That way, the members on the government side can't howl.

Dr Jack Carr: The problem is that people are paying more but innocent accident victims are getting less. If you were a quadriplegic or a paraplegic as a result of an accident, you wouldn't want to have that accident occur under this bill. Before, you had the right for full economic loss, and economic loss included the cost of future care, if you needed attendant care.

If you are quadriplegic, a \$3,000-a-month limit for attendant care is not enough if you're going to be cared for at home. If you're going to be cared for in an institution, it's okay, but if you're going to be cared for at home it is not enough. If you were a plumber, you would not get full compensation. If you were just starting out in your career, you would not get full compensation. A large number of people in fact would be hurt.

Also hurt would be the low-income worker. It's interesting that there's a part of the plan which somehow gets ignored. The rules of the income replacement plan have been changed. It used to be 80% of gross; it's now going to 90% of net. That means that the low-income worker, if disabled for a year and an innocent accident victim, will get less. A worker earning \$20,000 a year will receive 11.8% less under this proposed bill than under the Ontario motorist protection plan. A \$30,000 worker will receive 15.9% less and a \$40,000 worker will receive 18.4% less.

The few people who gain happen to be negligent people who are high income. An \$80,000-a-year victim receives 46.1% more. It hardly seems that this would appeal to the NDP constituency, to hurt low-income workers and help high-income workers, but the plan does exactly that. You're paying more and getting less.

The Chair: Mr Tilson.

Mr Mancini: They claim to be experts on the plan, so they must know what they're doing.

The Chair: Sorry, Mr Mancini. Mr Tilson.

Mrs Elinor Caplan (Oriole): I don't think they know what they're doing.

The Chair: Mr Tilson, you have the floor.

Interjections.

The Chair: Excuse me. Mr Tilson has the floor. Somebody took my hammer away. Mr Tilson, go ahead. We're starting over again.

Mr Tilson: Thank you, Mr Chairman. I'm interested in your apparent compromise to lower the deductible to \$7,500. I must confess that I have a lot of problem with the whole principle of the deductible, probably for many of the reasons you speak of. Whether you're talking about the serious and/or permanent injuries, whatever test we're going to use or contemplate, the fact is that no matter what deductible you're talking about, whether it's \$15,000 or \$7,500, that's still coming off the top of those serious injuries.

The second concern I have with the deductible, as I'm sure you have, is that no matter where you are, the courts are going to lean over backwards to increase that amount. At least, I believe they will. You in your wisdom may think not, but I believe they will. The \$15,000—to get over that amount, the courts will lean over backwards to increase that amount.

Thirdly, it does not make any sense to sue for \$20,000; with all the legal costs, you'd probably lose. So I'd like your comments as to what your apparent reasons are. What you appear to be doing is supporting the deductible principle.

Mr Bogoroch: FAIR's position has been well known. We were against any type of deductible. Unrestricted right to sue has always been the benchmark of FAIR. In fact, for a time we thought it was the benchmark of the NDP. That's not the case. But in terms of the deductible, we feel no deductible is necessary. However, to assist the committee, we wanted to highlight just how onerous a \$15,000 deductible is, because, in practice, for those out in the trenches dealing with the cases, dealing with the rank and file who've been injured and need compensation, a \$15,000 deductible is really a \$20,000 to \$22,000 deductible, and it will stop those seriously injured victims from going to court. We have a great deal of problem with that deductible; it's much too high.

We would prefer there be no deductible, but if there is going to be a deductible, \$7,500 accomplishes what the deputy minister said. It would eliminate the smallest claims, which are seen to burden the system. Any higher deductible, a \$15,000 deductible, does not accomplish what the deputy minister said before the committee.

Mr Tilson: Having said that, and listening to the rates of the four groups, the four consultants or whatever they're called, that presented the potential for possible rates—

Mr Owens: On a point of order, Mr Chair.

The Chair: Okay, Mr Owens.

Mr Owens: Mr Tilson has referred to four consultants. In my understanding, there have only been two actuarial studies.

Mr Tilson: That's not a point of order.

Mr Mancini: That's not a point of order, Mr Chair.

Mr Tilson: Tell him to sit down.

The Chair: Carry on, Mr Tilson.

Mr Tilson: The fact of the matter is that there are four reports; the latest one of course is Mercer. That's based on this current proposal of Bill 164. Professor Carr, listening to your \$7,500 proposal, what effect would that have as far as increasing rates?

Dr Jack Carr: We haven't gone and examined exactly how much more that would cost, but if you do that, it will in fact cost more; there's no doubt if you give more benefits to people. But that's a question and a basic fact this committee has to understand: One of the ways the Ontario motorist protection plan at least prevented rates from going up and put huge profits in the pocket of the insurance industry is that it reduced benefits by almost half. You can get rates down to nothing if you have benefits down to nothing, and that's okay as long as you don't have an accident. You always need to have a balance. If you put more benefits in the system, it's clearly going to cost, but you want a system that is fair. You don't want to take out the serious claims, and that's the problem here.

Ms Christel Haeck (St Catharines-Brock): Thank you for your comments. Obviously, I don't agree with a lot of them.

Mr Mancini: Which ones?

Ms Haeck: They were very clear where they stood, and I felt I should be clear with the same.

The Chair: Ms Haeck, through the Chair.

Ms Haeck: I have a document here. It's called Database Reports, which in fact is from the Insurance Information Institute, and it's dated May 1992. On page 6 of that, partway down the page, it says, "Under the traditional system, claimants with minor injuries tend to receive compensation that averages two to three times their economic loss, while those who are severely injured receive much less, just over half on average." Any comments on that?

Dr Jack Carr: There are a number of studies of tort, and there are a number of claims like that. You have to understand that the insurance industry would, if it had its choice, go to pure no-fault and lower benefits, because in fact if it doesn't pay out benefits, things are fine.

I don't know how you get two to three times your economic loss. I don't know why an insurer would pay it, because if you went to court, the court only gives you your full economic loss. It doesn't give you double or triple compensation. I don't know from where you're reading. Well, I know from where you're reading, but there were cases of double recovery when you could collect both from your disability insurer and from your automobile accident insurer. That's been changed, and we're in favour of that, that there's no double recovery.

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Ms Haeck: What you're proposing with this additional policy, this option to top up basically for economic loss: I think you were saying to Mr Tilson you haven't done any particular study as to the financial impacts or economic impacts, so there's really no way of costing that out either.

Dr Jack Carr: No, no, but I should say—

The Chair: I'm sorry—

Mr Harnick: Let him answer the question.

The Chair: I can't hear what the member's saying.

Dr Jack Carr: If the NDP is right, if they covered most of the cracks, that very few people fall through the cracks and most people are covered—

Ms Haeck: Which is over 90%.

The Chair: I'm sorry, Miss Haeck, let him answer.

Dr Jack Carr: —then this is only recovery for excess loss, for over and above. It's only the difference of what your economic loss is and what your accident benefits are. If the claim is right that you're getting most of your benefits anyway, the coverage should come fairly cheaply, and since it's an option, people can decide whether to buy it or not.

Ms Haeck: Well—

The Chair: I'm sorry, Miss Haeck. Time has run out. I'd like to thank you for appearing before this committee.

PROGRESSIVE CASUALTY
INSURANCE CO OF CANADA

The Chair: The next group we're to hear from is the Progressive Casualty Insurance Co of Canada. Would the two gentlemen come forward, please? I'd like to welcome you to the standing committee on finance and economic affairs. You'll have half an hour. In that half an hour, if you could leave some time at the end for questions—you can see the members try to get as many in as possible. Identify yourselves for the purposes of Hansard also. Do you have a brief there? Okay. Go ahead.

Mr Andy Rogacki: Good morning. My name's Andy Rogacki and I'm president of Progressive Canada. With me is Chip Conner, who's also a Progressive executive.

Let me begin by thanking you for the opportunity to express our views regarding Bill 164. Bill 164 was introduced some six months before the minister tabled his review of the performance of the OMPP. Clearly, the legislative cart was in front of the analytic horse.

When Minister Charlton introduced Ontario's strategy for automobile insurance reform, he described a five-part strategy to give Ontario's motorists another insurance system that is affordable, accessible and, above all, fair.

The reason for our presence here today is that after our careful review of Bill 164 and of the revised draft regulation which accompanies the bill, we believe that the affordability will be adversely affected, that accessibility will be in no way enhanced and that, above all, fairness is not served. The proposed system is not consistent with the minister's policy objective and it will not work. The legislation and regulation have not been put together in a way that properly balances the interests of all parties.

First, let me talk about Bill 164 and the legislative amendments. Over the last few years the Ontario automobile insurance system has been in constant turmoil. As you know, insurers can sell any product, but the public must be willing to pay the cost. The trick is to balance the cost of the insurance product with people's ability and willingness to pay.

OMPP has worked well and consumer satisfaction is high. But costs are escalating rapidly because there are few cost controls, a failing which also afflicts the proposed system. The industry recognized that the OMPP needs change and has proposed a number of amendments.

However, the government has chosen to build a new system rather than to amend the OMPP. The government is missing a historic opportunity to learn from the experience obtained under OMPP and to craft in Bill 164 a system that is fair and that would provide a more stable insurance cost.

Under Bill 164 all Ontario motorists would be covered by the highest level of accident benefits in North America irrespective of fault. In addition, those Ontario motorists who are not at fault in an automobile accident would also have an opportunity to recover their non-economic losses through use of the tort system. In effect, this design means that all drivers must pay more, both for higher basic benefit levels and for the higher transaction costs associated with the tort system.

The unfairness of this design is that even the seriously injured who are awarded compensation under the tort system have their compensable damages reduced by the deductible under Bill 164; therefore, compensation will no longer reflect the full value of the loss. At the same time, compensation for economic damages for those most seriously injured is also reduced. The deductible is simply an attempt to control the high cost of tort.

This is extremely unattractive public policy and bad insurance. The biggest winners will be at-fault claimants entitled to richer accident benefits and lawyers.

Let me deal more specifically with some elements in the bill. The withdrawal provisions should be made more reasonable by means of the following two changes:

(1) In the course of day-to-day business a company take actions which, according to the language within the bill, could be construed as withdrawal, even though no withdrawal is contemplated. A threshold percentage needs to be defined below which cancellations or broker terminations do not constitute withdrawal from the marketplace. We suggest at least a 25% threshold.

(2) When a company applies for withdrawal, it should be permitted to stop writing new business effective immediately. The applying company would still have to offer renewals for the period stipulated in the legislation, after which the company would simply run off its business.

These two provisions would permit flexibility for insurers, impose no hardship on consumers and do not adversely affect availability.

The deductible: Much has been said about the application of a deductible to tort awards. From a fairness standpoint, we oppose the deductible and believe that the current verbal threshold works much better. If the government were, however, to impose a deductible, it can be made to work with the following modifications:

(1) A specific cap for non-economic damage awards should be provided. The existing trilogy cap is contingent upon the full recovery of economic loss. While Bill 164 attempts to address this issue, since such a cap is critical to the quantum of benefits and their cost, we believe that it should be addressed clearly and explicitly in the legislation by setting a maximum amount for pain and suffering awards. Alternatively, the government could seek a judicial ruling from the Court of Appeal before Bill 164 receives third reading.

(2) Pain and suffering awards should be scaled relative to severity so that even if there is a cap in place for serious injury awards, awards for minor injuries do not escalate out of proportion. One solution is a schedule of awards which would assign a value to each injury or combination of injuries.

(3) We are concerned about erosion of the \$15,000 deductible. We believe that a combination of deductible, such as proposed in Bill 164, and a verbal threshold would do a markedly better job of preventing deductible erosion and consequent rapid cost escalation.

If the trilogy cap were not to hold or the deductible were not to work as intended, the public can expect enormous increases in costs and an insurance system that would be out of control.

Let me address graduated licensing. An important piece of auto insurance reform is simply not contained in Bill 164, and that piece is graduated licensing. To reduce the senseless tragedy and human trauma associated with automobile accidents involving new drivers, graduated licensing is needed urgently. Also, graduated licensing will have a positive impact on the cost of insurance by reducing the number of accidents. There is absolutely no excuse for not implementing graduated licensing immediately.

Let me now turn to my colleague, Chip, to address the draft regulations.

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Mr William J. Conner: In its present form, the draft regulation will lead to significant cost increases and ultimately to a failure of the auto insurance system. There's simply not time in this forum today to highlight with sufficient detail the many concerns we have regarding the draft regulation, so I will simply address a few of the more glaring problems.

Medical and rehabilitation expenses: We applaud the government's recent initiative to create a committee to deal with cost control in the rehabilitation, medical and long-term care areas. This development is long overdue. We hope the expertise of this new group will be incorporated into the final design of the regulation. In addition to this, the following areas need to be addressed:

(1) The regulation does not contain any restrictions on medical or rehabilitation expenses such as limitations upon who may treat, how long they may treat and by what means they may treat accident victims. La Société d'assurance automobile du Québec has demonstrated that such controls are highly effective and reduce the cost to the insurance system. Unless there are very rigorous, objective controls in place, we will witness the birth of an entire new industry of paramedical practitioners preying upon innocent accident victims and doing so at the public's insurance dollar expense.

(2) The regulation creates for insurers unlimited financial exposure to catastrophic claims. We do not believe that seriously injured people should be denied access to adequate resources to permit their recovery, but we do believe that because such catastrophic losses are much less predictable, have extremely long payout times and are unusually susceptible to technological change and the winds of

politics, the only suitable way to address catastrophic injuries is through a catastrophic claims fund. This type of fund exists in several North American jurisdictions and could be implemented also in Ontario. We suggest that a catastrophic claims fund be created and operated by the industry with mandatory participation by all Ontario automobile insurers. So far there's no enabling legislation for it.

In the area of income replacement, we view this as the area that probably needs the most work within the draft regulation:

(1) The definition of "activities of daily living" is imprecise and will contribute to overcompensation relative to economic losses. As an example, consider that a very minor event could be an activity of daily living in accordance with the definition. The disability test makes even a game of chess an activity of daily living because of its requirement for cognitive skills. We suggest that activities of daily living be redefined to refer to "activities of independent living."

(2) Extrapolations of gross annual income lead to the highest possible payments rather than to compensation which is fair and commensurate with the loss. For example, seasonal workers could receive a benefit based upon the extrapolation of four weeks of seasonal income into an annual salary. We suggest that income should be calculated solely on the basis of a single, objective metric; for example, the last consecutive 12 months of income immediately preceding the accident.

The loss of earning capacity benefit is especially susceptible to abuse:

(1) The reassessment provisions in their present form are absurdly loose. Reassessment after three years, after eight years and subsequently almost on demand guarantee that costs will escalate rapidly over time, that loss adjustment expense will be high and that an insurer can never close a claim once and for all. This long-term uncertainty will affect the cost of insurance to consumers.

(2) Establishing assessment centres which are the only organizations permitted to assess certain injuries, recommend treatment regimens and evaluate earnings opportunities is unnecessary and redundant. There are practitioners already in place who could deliver these services without creating any new infrastructure. It would be more efficient simply to regulate practitioners and to stipulate the qualifications for them to practise.

Completely missing from the draft regulation is any reference to loss transfer. Without loss transfer, the cost of motorcycle insurance is destined to skyrocket as a result of the newly enriched accident benefits, while the cost of insurance for heavy commercial vehicles would decrease. Absent loss transfer motorcycle insurance will be less readily available, and even with loss transfer the cost of motorcycle insurance will increase even more significantly than it will for private passenger automobiles. Loss transfer should be introduced. It should operate from the first dollar of loss rather than from above \$2,000 and it should be subject to a time limitation on the transference demand.

Let me also address the concept of entitlement versus indemnity which is embodied in the draft regulation.

The proposed draft regulation structures compensation in the form of entitlements through extensive categorization of claimants. The result of this approach is frequent overcompensation with respect to actual losses, particularly with respect to relatively minor injuries. A fundamental principle of insurance, of matching compensation to loss, is abandoned in favour of the principle of entitlement. It would appear that the crafters of the draft regulation adhered to a very simple philosophy in making the various determinations which give rise to the regulation: When in doubt, pay it out.

The resulting bias for overcompensation will in turn result in socially unbeneficial illness behaviour and will incent some people to take unfair advantage of the insurance system. This will result in all Ontario drivers paying for these undesirable behaviours. The solution, particularly for seriously injured claimants, includes moving away from a categorization-based system and towards individual assessment rather than compensation by formula. Our position is that accident victims are entitled to be compensated fully for everything that they lost, no more and no less.

Let me also talk about complexity. The draft regulation is very complex and it spans some 60 pages. It is almost unintelligible to anyone, even to a seasoned claims adjuster. The public is not likely to understand the proposed accident benefits regardless of the number of pamphlets or other attempts made by insurers or the government to explain them.

Lastly, and in some ways as important as anything else, I'd like to address cost. The government's own actuarial report on the cost of Bill 164, notwithstanding the fact that it uses some old outside-of-Ontario data and a variety of problematic assumptions in deriving its estimate, indicates that the bill and its draft regulations would drive up the cost of auto insurance.

The Insurance Bureau of Canada commissioned an actuarial analysis using more relevant data and assumptions, and the IBC's study indicates that the incremental cost of Bill 164 is closer to 13%, and that increase is over and above any increase needed to bring the current OMPP product to price adequacy.

In fairness, I should state that all of these cost estimates are very imprecise as both the legislation and the attendant regulations are not yet in final form. But it is clearly creating a potential for very significant cost increases which would be onerous to consumers. No one really knows what this bill is going to cost.

Mr Rogacki: In conclusion, until the government demonstrates its ability to create a workable, cost-effective regulation that implements the automobile insurance compensation system created by Bill 164, Bill 164 should be withheld from further consideration. At a minimum, Bill 164 should be amended to increase confidence in the number and cost of tort cases by adopting a verbal threshold together with the deductible; improve the withdrawal provisions so as not to unintentionally penalize ordinary business operations; and integrate road safety, in particular graduated licensing, into the package of reforms. The draft regulations need to be overhauled to provide for better cost control and ease of implementation. Without

addressing these critical components of the draft regulations, it will be impossible to guarantee an affordable, accessible and, most importantly, fair insurance product. Thank you, and we'll be glad to answer any questions you may have.

The Chair: We'll start off with Mr Tilson first. You've got four minutes.

Mr Tilson: One of the major issues, of course, for the consumer is the issue of costs. You have commented as to what Mercer says and what FAIR says. The fact of the matter is that rates will go up, no question about it, at a time when we're still not out of this recession. Notwithstanding what the government is saying, this government's broke, jobs are being lost, we're all having more and more costs, and now we're going to have more rates simply because the NDP wants to be different from the Liberals. That appears to be the sole reason for this particular bill. There's no other logical reason.

In your experience in the insurance industry, in your view, if the average citizen goes out and buys the minimum amount of coverage, what do you believe his rates will increase by with the implementation of Bill 164? This is notwithstanding the uncertainties that you've talked about, and you're quite right, with the regulations, who knows what it's really going to cost us when we suddenly realize and start understanding the effect of some of these regulations and the benefits? But at this particular point in time, you must have some idea, speaking in general terms, as to what you believe the rates will go to for that minimum coverage.

Mr Rogacki: Again, it's very difficult to price it because the regulations are really not well defined and the regulations are really the hidden cost driver behind the legislation, so until the regulations are very well put in place and very well defined, it's almost impossible to precisely say what the coverage will cost. With that caveat, if you were to take Bill 164 and implement it, it would cost us roughly in the neighbourhood of 10% to 15% above fully priced OMPP.

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Mr Harnick: On page 9 of your brief, I'm captivated by what you say. I think it's probably why you're described as the Progressive Casualty. You state: "The solution, particularly for seriously injured claimants, includes moving away from a categorization-based system and towards individual assessment rather than compensation by formula. Our position is that accident victims are entitled to be compensated, fully, for everything that they lost, no more and no less."

I think that shows you're a whole lot more progressive than the NDP government, because what that says to me is that if somebody suffers an economic loss beyond what the government wants to pay them under its categorization system, they should be able to do that, so that no one is suffering an economic loss and no one is out of pocket their actual losses. Correct?

Mr Conner: That would make for a better system design, in my view.

Mr Ward: I'd like to thank you gentlemen for coming out this morning and giving your views on Bill 164.

Shortly after our election as the government—it was common knowledge we disagreed with the Liberal OMPP plan in its form—when we realized that it was a bad time for public auto, the insurance industry met with myself and my colleagues and said: “Look, you can modify the existing plan to change it, to improve it. You don’t need public auto.” We said, “It’s bad timing for public auto,” so we moved ahead with Bill 164.

It’s my understanding that over the last two years there’s been approximately \$1.3 billion in profits garnered by the auto insurance companies in Ontario. We recognize, as a government, that to make things fairer, to improve the benefits, there’s a cost to that and the Mercer actuarial study that was done for our government estimates that cost to be around 4%.

There are approximately 150 companies in Ontario which shared in that \$1.3-billion profit. My understanding is that cost is going to be directly flowed through to the driving public in higher premiums. Is there not a competitive nature in the insurance industry in Ontario? Perhaps one company is going to say, “Sure, we’re going to have to absorb a little bit of that cost and perhaps not all of that cost will go into our premium, but we may lower some of our profit levels of that \$1.3 billion.” Is there not a competitive edge in the insurance industry in Ontario?

Mr Rogacki: First, let’s address the \$1.3 billion a little bit, and that is, it’s irrelevant. It’s apples and oranges to what we’re trying to talk about.

Historical profits are no more than tombstones, and actuarial rate-making looks at what an insurance company will need to charge now to be able to pay for claims later. The actuarial studies that were done simply say that in order to be able to pay for the cost of loss, its administrative expenses and some profit, the insurance system—not any particular company—must charge approximately 10% to 15%—13%, if you wish—above its fully priced OMPP rates. You’re right: Some companies may choose to charge less and some companies may choose to charge more.

Mr Ward: Depending on business decisions.

Mr Rogacki: Depending on business decisions. However, the cost of the system, as a whole, will increase by approximately 10% to 15%.

Mr Ward: Or 4%. That’s still debatable.

Mr Rogacki: As I said before, that’s debatable because of the caveats and the rules.

Mr Ward: One last question: The IBC, the Insurance Bureau of Canada, supports the creation of a task force to look at the rehab and long-term care. As a member of the IBC, do you support that initiative?

Mr Rogacki: Looking at the rehab and long-term care? Absolutely, it’s a great idea.

Mr Mancini: Mr Rogacki, I made about seven points for questions, but with the very limited time, I’ll narrow my questions down to two. First of all, I’d like to ask you about the draft regulations. You said on page 9 of your brief that the draft regs are “almost unintelligible to anyone, even a seasoned claims adjuster.” The Ontario motorist protection plan contained all its draft regs on 18 pages. The

NDP government’s draft regs on Bill 164 are 68 pages of gobbledegook that not even people like yourself are able to understand, let alone the buying public.

I made the allegation in yesterday’s committee hearings that the draft regulations are going to turn the Ontario Insurance Commission into a new Workers’ Compensation Board, and I’d like your opinion on that.

Mr Conner: In principle, I see two responses to that. The first one is to say yes, it creates more mechanical complexity and steps and procedures and follow-ups to procedures, so it becomes a very much more systematized, bureaucratic approach to handling what are fundamentally human, personal, variable situations.

The other response is to say that the draft regulation, because of its design, almost has to have all these little rabbit warrens into which to stick a case, because of the categorization-based approach that’s been taken to paying for claims. It’s a necessary fallout from the system. That’s part of what leads us to the conclusion that, because the draft regulation is in such poor condition at this late stage in the legislative life of the bill, it’s imprudent to proceed with the bill until we can demonstrate that the draft regulation can be made such that it will support the legislation out in the real world.

Mr Mancini: Are you aware that the chairperson of the Ontario Insurance Commission has asked the government for \$5 million and 100 more staff persons?

Mr Conner: I read that in this morning’s paper.

Mr Mancini: My second question is in regard to your comments on page 10 of your brief, where you emphasize the point I made yesterday, that the government’s own actuarial report used old, extrajurisdictional data, mainly from Quebec; I made the allegation yesterday. You further go on to say that these data are problematic. I’m assuming you mean that the 4.4% increase that Mercer and the government want to impose on the people could be significantly higher. You further go on to say that your own figures indicate that it could be 13%.

At 4.4%, the Ontario public will pay nearly \$200 million more in insurance rates because of Bill 164. If we believe you instead of the government, and there’s great reason why we should, then that \$200-million figure is very, very low. It could go up to \$400 million. If we believe the Coopers and Lybrand people, it could go as high as 20%, meaning a \$565-million increase from the Ontario public for its insurance rates.

I want to ask you, sir, do you think the people of Ontario are getting a bargain when they’re being asked to pay \$565 million more, over and above what they’re actually paying for Bill 164, which strips people of the opportunity to regain economic loss?

Mr Conner: My customers would generally rather pay less than pay more, and it’s difficult to see how, with the exception of people who are at fault or people who are at very high earning levels, anyone’s going to do much better under this bill.

The Chair: Thank you for appearing before this committee. The time has run out.

MOTHERS AGAINST DRUNK DRIVING

The Chair: The next group we've got coming forward is Mothers Against Drunk Driving, MADD. We have Mr John Bates. Welcome to the standing committee on finance and economic affairs. You have one half-hour. In that half-hour, please leave some time at the end for the members of the committee to ask questions on your presentation. We'll be starting off with questioning from the government side first, after your brief.

Mr John Bates: I certainly welcome the opportunity. First of all, let me make one thing perfectly clear. We're the end users of insurance. We're not in the lawyers' camp, we're not in the insurance camp or the government's camp or anybody else. It's our contention that the only people who really know if an insurance system works or not are the end users: the victims of automobile crashes. If insurance doesn't work when you need it, if it doesn't work for the victims, then it doesn't work, period. If victims don't get fair, adequate and fast compensation, then something is radically wrong.

Our position on no-fault is well known. It hasn't changed one bit since then. The main objection we had to Bill 68 applies to Bill 164 in equal measure. While it's probably academic to talk about this at this point, we still believe the right to sue, the right to have full access to the courts, is a very basic right. It should be the very underpinning of our insurance system. It's the only way we can ensure that justice is done for all. That's what courts are for.

No-fault insurance discriminates against one class of victims, and one class only. Why is it, as Professor Carr said, that if you're hit by a boat in the water you can sue, but if you're hit by an automobile on the road you can't? Why? Can anybody answer that? I'd just love to have it. In fact, if you're hit by anything other than a car—a snowmobile, a tractor, an aircraft, even a power lawnmower or anything else—you can seek redress in the courts. Crash victims alone are denied that very basic right, and it doesn't make sense. It just doesn't.

This government promised to reinstate their right to sue with Bill 164, and in one sense, it did keep that promise by allowing car crash victims to sue for pain and suffering. But at the same time, it eliminated the real reason people were going to court in the first place, and that was for lost income.

At least Bill 68 allowed us access to the courts if the threshold was satisfied. Now even that's been taken away. Can somebody tell me why there is a \$15,000 deductible for pain and suffering? Why a deductible at all? How on earth can anyone with less than the wisdom of Solomon himself decide if a person has had \$15,000 worth of pain and suffering? Think about that for a minute. The very concept's just plain silly. You go to court and you say: "No, you've had \$14,500 worth of pain and suffering. You can't sue. You've had \$15,500. You can sue for \$500." It's crazy. It's certainly, from the victim's point of view, absurd.

And how does the government propose to determine that a lost leg is worth \$1,000 a week tops, and only then if you're making something like \$60,000 or \$70,000 a year?

Again, that's just blue-skying something. Surely we should have a two-tiered system, if the government insists on going ahead with this, to allow people access, to allow them to sue for that amount they don't get over their regular payment schedules.

But I don't really want to get into all the intricacies of the insurance thing, as I'm not qualified to do so. All I want to do is make sure the victims are taken care of.

Let me focus on what we're really talking about here and what these consultations are really about: It's about keeping costs down. However, forgotten in all the rhetoric about thresholds, deductibles and tort, in the end there is now, and always has been, one significant way of reducing premiums, and that's to reduce the number of crashes. Insurance premiums are a function of the crash rate, not the type of insurance. That's such an obvious statement, it seems silly to say it out loud.

There are some 980,000 automobile crashes in Ontario every year, which costs the insurance companies about \$3 billion. It's elementary to point out that if we prevent just 10% of the crashes, we would save \$300 million a year. The major saving to be made has little, if anything, to do with diddling around endlessly with the kind of insurance system, until we have come to grips with the underlying problem, which this government flatly refuses to do.

The attitude of this government seems to be that the high costs are the result of inefficiencies in the system. It's like saying the huge cost of health care is a result of inefficiency in the health care system, when the real cause is because people get sick. But we seem to be unable to transfer that logic to automobile insurance, because this government has done less than nothing to reduce the crash rate. I'll get into that later, on how they have done less than nothing.

For example, even though we know that the only effective deterrent to the tragedy of impaired driving is the roadside sobriety spot check, this government has withdrawn funding to the degree that the RIDE program is no longer effective. In fact, it doesn't even exist in smaller centres any more. It is not there, so impaired drivers have pretty much a free rein. It's been drastically cut back in Toronto: It's only about half the size it was a few years ago. It's no wonder insurance costs are going up.

There is only one way to reduce insurance premiums significantly, and that is to implement measures that will make certain that only those people who will drive safely in this province are allowed to drive at all. I'd like to drill that in, because there are people driving cars in this province on our roads and highways right now who ought not to be driving anything, anywhere, let alone a car; they shouldn't even be driving a bicycle.

MADD, previously known as PRIDE, has made endless proposals to governments on initiatives that will dramatically reduce the crash rate, but all to no avail. Many of these proposals have been put into effect in other jurisdictions with positive results, but this province remains mired in the backwaters of highway safety; it really is. I get embarrassed when I speak out west and so forth and hear what they're doing out there.

Some of these proposals are:

(1) Raise the legal drinking age to 21. While time does not permit me to go into the full rationale for raising the drinking age, the fact remains that it is the key to winning the battle against substance abuse and the battle against impaired driving. Inexperienced drinkers and inexperienced drivers have proven to be a deadly and tragic combination. Incidentally, the insurance bureau does back us up on this one. Obviously, if we can delay the onset of drinking, we also delay the onset of impaired driving. If alcohol is more difficult to obtain, then driving after drinking is more difficult to accomplish.

We should note that moving to 21 is supported by virtually every highway safety group, parents' group and health care agency in North America. The US has taken the move and experienced positive effects, a some 17% drop in crash rates. That's what they did. The young people in the US did not become unhinged because they did it.

All we are asking is that the government form a task force to study the possibility. The government's refusal to even form a task force to examine the question simply means it is more afraid of the light than the dark. All we are asking is that the government look at this tragedy of endless killing of our young people on our highways. Think about it: The automobile kills more of our young people than all other causes of death combined. A full 40% of the people killed on our roads and highways in this province are under the age of 25. As a compassionate society, we have to do something about that. But what are we going to do? What? Don't we care? It's madness to allow this to go on. It's a little bit like the bishops who refused to look through Galileo's telescope because they were afraid he might be right. That's why we can't get a task force.

We have to take some draconian measures to get insurance rates down and start saving lives.

(2) The graduated licence: We first made our presentation to Ed Fulton, who was then Minister of Transportation, in November 1986, and to every Minister of Transportation since that time. I first wrote about it many years ago when I was editor of a transportation magazine for Maclean Hunter. It works because we know that an inexperienced driver of any age is far more likely to get into a crash than any seasoned driver is.

At present, for example, it is possible or even likely to get a driver's licence in this province without ever having driven on a road. A relative or a friend can teach you how to stop and start in a parking lot somewhere, drive you to the local testing area where you do a three-point turn and parallel park—and hardly anybody gets killed parallel parking as far as I know—answer a few questions, get a licence on the spot and then drive a high-powered car on a superhighway in rush hour. That is madness. No wonder so many kids, who make up the majority of new drivers, get killed every year.

Wringing our hands and viewing with alarm won't help these kids. A graduated licence would allow new drivers to gain experience in an atmosphere of greatly reduced risk. It would limit the number of passengers, and that would avoid kids piling a bunch of others into a car and slamming into the side of a train in Milton, which happens all too

often. It would limit them only to daylight hours, and they would have a zero BAC, blood-alcohol concentration, limit. As they develop their confidence and driving skills, they would proceed to the next level and so forth, until they've earned full driving privileges.

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I'll leave a presentation we made to the government in 1986. Its reasoning still stands, and please don't tell me the government is looking at it, because one level or one form of government down here's been looking at it for seven years now and does nothing. Seven years mired in some bureaucratic ooze somewhere and they have done nothing about it and people are dying.

(3) Increase roadside sobriety spot checks: As mentioned, it doesn't matter what else you do to reduce the carnage caused by impaired driving. Nothing, absolutely nothing, will result in a decrease in the incidence of impaired driving crashes unless you have a well-publicized spot check program. However, this government has a policy of fewer spot checks, not more, and there are a lot of people in convalescent homes and hospitals and funeral homes who want to know why. So do I.

(4) Administrative licence suspension: When a driver has a BAC of over 0.08 following a properly administered breath test, his licence should be revoked on the spot. At present drivers retain their licence until they come to trial. Often they run up their second and third offence while awaiting trial for their first offence. All too often they kill somebody in that period.

Such a program is in effect in Manitoba, and it's gone all the way up to the Supreme Court and proven to be perfectly constitutional, and at least 29 states in the United States.

Manitoba's taken the step of suspending the licence of impaired drivers for 90 days—that's when they blew in a Borkenstein breathalyser—and reported a 50% drop in impaired driving offences in the first six months. Right there is the 10% drop you're looking for, in that one thing. Why not?

It also experienced a reduction in the court case load because more drivers are pleading guilty because they want their case to come to trial quickly.

This suggestion, incidentally, is simply an extension of the Ontario 12-hour suspension for drivers who blow over 0.05 on a roadside screening device, the little orange breathalyser the police use.

(5) A permanent licence suspension on a second offence: It's a sticky point. Anyone who would chance a mandatory two-year suspension and a 14-day jail term obviously has a drinking problem. Further, we know that most of the serious injuries and killings are done by drivers who have a BAC of 0.165. That's more than double the legal limit. These people have had a case of beer before they got behind the wheel of a car. This is the hard-core drinking driver who will not respond to reason. They are the ones who are most likely to cause serious injury or fatal crashes. If somebody kills you on the road this weekend, it's likely to be somebody who's been in the system before. It's somebody we should have taken out of the system a long time ago.

If these people can prove after two years or so that they no longer are a menace on our roads, then they can get a probationary licence back again. But if they do it again, if they trip up once more, then they no longer have the privilege of driving an automobile anywhere in this province, period.

So how do we stop them from driving while they're under suspension? Easy.

(6) Automobile confiscation: Anyone caught driving while under suspension should have their car seized by the crown and sold at auction, regardless of who owns the car. Whether it's a rental car or their Aunt Minnie's car or whoever's, they lose the car right there on the spot. We'd have to phase this thing in, but we'd be awfully careful who we lent our car to. In other words, you'd make it illegal to lend your car to an unlicensed driver, knowing full well your car would be forfeited if that unlicensed driver was caught driving it. It's a pretty simple thing to do.

(7) Licence endorsements: The insurance history and the serious crash rate of the so-called muscle cars clearly demonstrate that drivers should have special training and a special endorsement to own and drive one. I'm talking about cars like the Taurus SHO, which has an incredible torque on its front-wheel drive, and you know what happens when its wheels spin; it shoots the car into the other traffic lane. The Corvette, the LX7, the five-litre Mustang and similar overpowered cars have proven to be deadly in the wrong hands.

Not only are these cars inherently dangerous in inexperienced hands, but only too often the people who purchase them are exactly the ones who shouldn't. Probably some people around here own Corvettes or something, and I don't think much of them.

The Chair: We know one.

Mr Bates: There's one guy who talked about insurance a lot who has a red one, I understand. A big tall guy with cowboy boots.

A quick look at the insurance stats on these cars will prove the point. In fact, we should seriously question the logic of even producing these cars for general use on our roads. I mean, there's no reason people should be driving a five-litre Mustang. The place for that thing's on the Indianapolis Speedway.

(8) Leaving the scene: The penalty for failing to remain at the scene of a serious crash should be the same as it would be if the person had been convicted. In other words, right now it's more advantageous to flee because you'll get a slap on the wrist, rather than stay and chance a second offence. So when you catch them finally, you simply nail them for something a lot more stringent than it is now.

Unless and until you are prepared to take some very strong measures to make our highways safer for all road users, it's futile and probably hypocritical to even talk about lowering premiums by fine-tuning the insurance system.

The much-touted Ontario Road Safety Corp is yet another example of organization of style over substance. It allows the government to look like it is actually doing something, when in fact it's doing nothing at all. Just why it's being considered escapes me completely. There are a number of non-governmental groups like the Traffic Injury

Research Foundation that have been doing this work for years at no cost to the taxpayers. Just what this new organization can contribute to the well of knowledge in this field is rather obscure.

All the aforementioned initiatives can be implemented within the MOT without reference to another level of government spending. As I said before, we're already slugging through some bureaucratic ooze trying to get some of these things before government, and let's not let another level set in.

In summary, we would ask the government to withdraw consideration of Bill 164 until you've addressed the real, underlying problem, and that is quite clearly to implement measures which will lower the crash rate and start saving lives. We've waited long enough. Someone once said that what MADD does with victims is that we help them to survive, to start living, and to dare to dream again. We aren't going to do that with no-fault insurance. We've waited long enough. We're tired of answering our phones to the anguished cries of victims asking us to answer unanswerable questions.

You don't refuse to raise the drinking age because you think it's politically unpopular; you raise it because it's morally correct. You don't delay bringing in the graduated licence because it might be unpopular; you bring it in because it will save lives. You don't turn your back on the police RIDE program because you think there are more important priorities; you maintain it because it stops the killing—and it does.

And mostly, you implement these safety measures because you believe that the people of Ontario have a right to use their roads and highways in safety. Do you know, when you're driving up to your cottage some night, one out of every eight drivers has been drinking that you meet in the road? What are you going to do about it? You won't get the insurance premiums down until you've done all in your power to make sure that only those who drive safely can drive at all. This is, and must be, this government's first and most pressing priority. You owe that much to the people of Ontario.

Thank you. If I sound angry, I am.

The Chair: I think a lot has to do with the drivers and the way they drive and pass on the right. I was driving in Europe on the autobahn at about 180 kilometres an hour, but it depends on the other drivers and how well they drive, and you never pass on the right in Europe.

Mr Bates: That's right, you don't.

Mr Phillips: Except in England.

The Chair: Well, yes, okay. That's different. We'll go to Mr Dadamo. You have four minutes each.

Mr Dadamo: Mr Bates, thank you very much. I wanted to say in the onset that I spent a couple of years in transportation as parliamentary assistant and we spent much time talking about graduated licensing, ad nauseam at times—

Mr Harnick: Talking.

Mr Dadamo: Thank you. I can hear you.

You've said it verbally and I can see it's written all over your face that you're very sceptical on graduated

licensing and the idea, but I believe the time has come to implement. The Minister of Transportation certainly is committed to seeing this through.

But there are some problems in legislating anything, sir, and one that the government seems to have a problem with is with northern Ontario. Some people in that part of this province argue that they should be treated differently under a graduated licensing system. For example, they would say that given the lack of public transit there should be a different set of rules for people in northern Ontario and rural Ontario. Could you comment on that idea?

Mr Bates: The whole idea of a graduated licence and the various kinds of graduated licensing are not etched in stone. For example, we say that people should not be allowed to drive on high-speed roads. What about somebody whose driveway backs out on to a 100-kilometre road? All he could do is drive up and down his driveway. So obviously you have to have that kind of thing built into the system. It would not apply throughout the entire province. For example, students or somebody may require their car to drive at night to go to work. That's okay. They get an endorsement on their licences saying it's okay for them to drive from here to here. The same thing would apply to northern Ontario. You could set a line north of Minaki, where, say, different rules apply. That's perfectly logical. The whole thing is not engraved in stone. It varies, and it would be up to the local MOT person to do that.

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Mr Klopp: That was basically my question, too. I think you've given a very good brief. I understand where you're coming from. In fact, I've talked to students, because they're the ones—you talk about the political realities and I guess I've come around. I think I like to try to work on things because they're right and then work back. If it's right to me, I'll take the political hit. I've been around here for 10 years and it doesn't bother me that much.

One of the things you've talked about: You've been involved with MTO on these discussions since—

Mr Bates: Since 1986, that's right, and I wrote about it—I used to be the editor and publisher of *Bus and Truck Transport*. I used to have Arthur Hailey's old job.

Mr Klopp: Okay. I do know, because I've been pushing some of these things. I talked to students and hit them head-on with this question. You joke about it when you run into them at the corner store in town: "I hope you guys don't do this; I'm going to be 16 next month and I want to get my licence." But I've come to realize the numbers, and on other committees—in fact I think I've been on a committee where you've come before—and it does sober you up, and there is a bigger picture. I would just like to say that the students—there were about 75 in the room—I didn't pull any punches with them and I was surprised. I heard after from their parents, because they were here in this building, that they were quite impressed and they thought it was something that it is more and more to do. Unfortunately, we've had a couple of bad accidents in our area and of course, like anything—we're all guilty

of it—when it hits home then you see the other side so very clearly. So I commend you for that work.

Mr Bates: What it does is put a very important tool in the hands of the parents. They can say, "No, you have a night-time endorsement on your licence; therefore, no, you can't have the car." I can think of several hundred young lives that that one endorsement would have saved because their parents said, "No, it's not me; you don't have the licence to do it."

Mr Phillips: I appreciate the presentation. You can be helpful, I think, to the committee just in terms of helping us a little bit, perhaps, on the financial side of things, because I think your brief may raise some opportunities for us. The bill we have before us right now is going to represent, for the people of Ontario, about a \$200-million increase in insurance premiums. That's the minimum. That's the lowest estimate we've had. The lowest is \$200 million, going up to \$500 million. The government just this morning announced that the social assistance rates will go up about \$60 million. That's all that can be afforded, 1%. But we're going to ask the people of Ontario to fork over another minimum \$200 million, perhaps up to \$500 million, for increased insurance premiums, just because of the bill, in addition to any other rate increases. My question to you really is, have you any feeling on what might happen if we implemented your recommendations? You've got an estimate of 10% in here, I think.

Mr Bates: It's not an estimate. If it did that I think we'd get far greater than that; I think it'd be far more than 10%. For example, the States got a 17% reduction in impaired driving crashes among teenagers when they put in the age 21 alone.

You see, there's one group of people who are causing all the trouble. It's 10%, basically, of the so-called alcohol abusers. The people who abuse alcohol—I won't get into all this—abuse alcohol largely because they're carrying a lot of bad baggage. They're very aggressive people. They transfer their aggression to their cars. They're people who are socially immobile, but put some alcohol into them and they're deadly. If we can put in a system we'll simply pull those people out of the system like the graduated licence will and the permanent licence suspension/confiscation of automobiles will do. Ultimately, we'll get these people out. The roads will be a heck of a lot safer; we'll save a lot more than 10%; a lot more.

The Chair: You've got two minutes left, Mr Phillips.

Mr Phillips: In terms of the graduated licence, would you see that for all people applying for the first time for a licence in Ontario, so that if you moved here from the States and applied for a licence you would see that?

Mr Bates: You'd have to start right back at the beginning, but at the discretion of the examiner; he would decide what level you'd reached. The graduated licence has another great example. For example, we now take licences away from people when they get to be advanced seniors, but with the graduated licence you take them back down again so they can still drive to the doctor, still drive to the bridge game, still drive to the store, but they can't drive on super-highways at night.

Mr Phillips: Right, and in terms of the RIDE program, again, I'm just trying to get a feeling of what savings—I hate to put this in financial terms because it's the human side we're more worried about, but just what savings might you see as a result of that stepped-up RIDE program?

Mr Bates: They would be huge. When the RIDE program goes into effect at the end of the year, the crash rate just goes down like so because of the perception of it. Out in rural Ontario, the perception doesn't exist because it doesn't; there is no such thing.

Mr Phillips: So there are statistics where you show that in the last two weeks in December?

Mr Bates: Absolutely.

Mr Tilson: Thank you very much for your thoughts, Mr Bates. I think you've put your finger on the real issue. I've got the impression from this government that it's saying, "Our proposal is better than the OMPP, and that's that." That's what they're doing. We've listened to the statistics they've been putting forward, which are very minimal, and if anything, rates are going to go up. In other words, they're putting forward a plan that's going to give us fewer rights, but it's going to cost us more.

I think the statement that jumped out from your presentation was, "Unless and until you are prepared to take some very strong measures to make our highways safer for all road users, it is futile and probably hypocritical to even talk about lowering premiums by fine-tuning the insurance system." In other words, the real issue in this whole exercise is, how are we going to stop accidents? How are we going to stop the carnage?

Mr Bates: That is the issue.

Mr Tilson: We've been pushing the graduated licensing proposal since this government came into office. We've gone through different Transportation ministers. For the life of me, it's baffling why they can't put it forward, because as you say, you did start to talk about it many years ago.

My question, Mr Bates, is with respect to the threshold test. I know we've all heard it and I'm going to read it out again, and it will be read over many times, Bob Rae said when he was opposition leader and when he was appearing before the Osborne commission:

"Nor do we consider it necessary or appropriate to impose any kind of 'threshold' requirement, limiting the right to sue to those whose loss exceeds a specified dollar amount or stated degree of injury.

"New Democrats are opposed to the loss of individual legal rights entailed by such thresholds."

It's a rather astounding position that we're in.

Mr Bates: I stood right beside Bob Rae on platforms. What has happened here now is they're picking on the weakest members of society and taking the rights away from the crash victims, people lying in hospital beds and so forth. I just wish some of these people could come and answer our phones just for a day and try to answer the unanswerable questions we try to answer.

Mr Tilson: The very people the NDP people over here are trying to protect—I don't know what they're receiving,

but I'll tell you about the letters and criticisms I'm receiving already about the existing system, the OMPP. Whether you're for or against it is one thing, but this system is far worse. I appreciate your comment that the real issue is how we're going to stop the carnage.

Mr Bates: We're apolitical. I don't care what government's in.

The Chair: A few minutes, Mr Harnick.

Mr Harnick: Mr Bates, does it grate on you that someone who is at fault for causing an accident ends up, under this scheme and under the OMPP, basically receiving the same amount as the innocent accident victim?

Mr Bates: What do you mean "the same as"? Take someone like me. I don't get a nickel for doing what I do. I'm a total volunteer. I don't have any salary coming in at all. I live on a pension. If a high-priced lawyer hits me, he gets all sorts of money and I get \$165 a week. What do you mean "the same as"? It infuriates me about that.

Mr Harnick: In terms of a determination of fault, why is that something that is so important to you as the person who looks after Mothers Against Drunk Driving and also PRIDE, People to Reduce Impaired Driving Everywhere?

Mr Bates: Victims have no rights; impaired drivers have all kinds of rights. The victim is going to be thrown out of court if the defence thinks it may jeopardize the case. Victims don't have any rights. The only chance they ever have of gaining any rights at all is in effect to take their tormentors before a court and get some kind of retribution. That's the basic thing that's so angering about no-fault.

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The Chair: Mr Harnick, your time has run out. Mr Owens, you have a comment?

Mr Owens: In terms of a statement of fact that was made by Mr Harnick that an impaired person who is the cause of an accident gets the same benefits as the injured, that is not true. A person who is convicted of impaired driving gets absolutely no weekly benefits.

Mr Harnick: If he's convicted. What about the person who's drinking and isn't convicted? What about the person who speeds? What about the person who's charged with careless driving because he made an improper left-hand turn and didn't look? What about the person who deliberately speeds? As parliamentary assistant, I think you better go back to the drawing board and learn what this is all about, because you absolutely have no clue about what happens in a motor vehicle accident. Your ignorance is appalling.

Mr Owens: I think, sir, that you should go back to law school to learn decorum, because if you pulled this kind of stuff in a courtroom, you'd be summarily tossed out on your head.

Mr Harnick: I beg your pardon? I'll go to court any time with you, any day, any week, anyplace, and I'll tell you, you'll be the one tossed out of court, not me.

The Chair: Mr Harnick—

Mr Owens: I don't think so.

The Chair: Mr Bates, I'm sorry for this outburst. I thought we were all gentlemen in here.

Mr Bates: I am anyway.

The Chair: Thanks, Mr Bates. It's a pleasure having you here. Thank you for presenting. I know you don't get paid, as you said, but you're out there for everybody's interest.

MARKEL INSURANCE
COMPANY OF CANADA

The Chair: The next group is the Markel Insurance Co of Canada. Would you come forward please. Mr William Grant, president, I presume?

Mr William Grant: That's right.

The Chair: Welcome to the standing committee on finance and economic affairs. Do you have some associates with you?

Mr Grant: Yes, I do.

The Chair: Come forward and take a seat. We're studying Bill 164. I believe you've got a brief to present. If you don't mind starting, we have one half-hour. Before you get going, would you mind identifying yourself and your colleagues for the purposes of Hansard. You may begin.

Mr Grant: My name is William Grant. I'm president of Markel Insurance Co. On my right is David Gaskin, who is one of our loss prevention consultants, and Nora Hillyer, who is our underwriting manager.

By way of introduction, Markel Insurance Co is a Canadian-owned and operated insurance company which has specialized in providing trucking insurance since 1951 and I think is widely recognized as the expert in this field. Indeed, I think we're the only insurance company that specializes totally in trucking insurance.

Not only are we in the insurance business, but part of that business we feel is a partnership with the trucking industry and a partnership in safety. Markel has long been known for its commitment to safety and loss prevention.

Currently, we have a staff of five loss prevention experts who do a variety of functions which are listed in a paper attached to the back of the report. These functions vary between developing and evaluating safety programs for our fleet operators. We visit our clients at least every 90 days. We conduct facility audits in accordance with the National Safety Code and the US federal motor carrier safety regulations.

We conduct seminars for management personnel and conduct driver seminars on safe driving techniques, log-book-keeping, hours-of-service compliance, air brake systems, load security and handling and transportation of dangerous and hazardous goods. We assist with safety meetings with our insureds and participate in the Markel Safe Driver Awards program, which consists of annual presentations of yearly safe-driver pins for accident-free driving. We also make available our driver evaluation and upgrading and road tests for pre- and post-employment at our school of transport training.

In 1988, we created a transport training school or truck driver training school in Guelph, Ontario, to elevate the level of transport driver training in Ontario. This was

brought about basically from our insureds, who told us that while there were lots of drivers out there with class A licences, they were not qualified drivers, ie, the level of training was not adequate. We established the school to improve on the level of expertise in the driving area.

We work closely with government and industry groups on matters of safety. Our staff wrote the air brake handbook for the Ministry of Transportation. We have been pro-active on the issue of drug testing for transport training and are currently working with the Ministry of Transportation on the system it is looking at of evaluating the safety levels of various fleet operators in Ontario.

We're active members of the Ontario Trucking Association, the Ontario Safety League, the Transportation Safety Association and the Canada Safety Council.

In terms of the trucking industry, unlike most other businesses, insurance costs are very significant for the trucking business. They represent about 3% to 4% of the cost of a trucking operation, which is very significant compared to most other industries.

Trucking employs over 200,000 people directly in Ontario and represents 4% of the gross provincial product. Much of the trucking business is the independent small business that our economy needs to encourage.

The trucking business is in trouble trying to compete. I think we're all aware of the protests etc over the last few years by the trucking industry as it tries to deal with the issues of deregulation and free trade. Surprisingly enough, as has been noted by the OTA, insurance is one area where we have been competitive. Obviously, we want to protect that system.

A trucking business cannot operate without insurance, and significant insurance facilities have gone from the market. United Canada went into receivership in the mid-1980s. Transit Insurance Co withdrew last year. We feel reasonable insurance rates stem from stable claims costs and a stable market. This exists today, but Bill 164 could change this. The OMPP overlooked the problems of the trucking industry and added to the problems. We ask that you don't do it again.

In general, we want to state that we share the concerns of the remainder of the insurance industry over the issue of the deductible, which we think will also be difficult or expensive to administer in that we will now have to investigate every claim because we will not be sure whether it will exceed the deductible at the time we reported the loss. So our internal claims-handling costs will increase significantly.

We believe complex and very expensive first-party benefits will increase the costs, again in accordance with the Insurance Bureau of Canada. This impact will also be directly on the trucking insurance industry and it will pass the costs through.

We are happy to see the motions to amend the bill with respect to withdrawal and other issues presented by the minister.

We refer to specific problems for Markel, the trucking industry—I should say the other insurers who provide trucking insurance—and ultimately consumers and the people who depend on the trucking industry. We must

remember that it's the consumer who ultimately pays in commercial trucking insurance if costs go up. They pay increased costs for their consumer goods. Or if the company cannot compete and goes out of business, the people who work there lose their jobs.

One issue that was part of the OMPP was the issue of loss transfer. Section 275 of the Insurance Act prescribes a procedure of transfer of losses from "such class or classes of automobiles as may be named in the regulations." The insurer of a prescribed class of vehicle is required to indemnify the insurer of the victim of the accident for no-fault benefits paid based on fault. A regulation has been issued which applies this section to vehicles with a weight of more than 4,500 kilograms.

Notwithstanding the importance of the trucking industry and our role in the support of that industry, we are unable to offer any rationale for this provision, and we were not consulted in the first place. Basically, the OTA and ourselves believe this is a strictly discriminatory view of the trucking industry, which is viewed as the bad guy on the road. We think statistics show that in actual fact the truck driver is the safer man on the road.

The effect of the provisions is to require trucking insurers to provide no-fault benefits—statutory accident benefits—and to pay huge tort losses as well. Trucking insurers are required to operate in two systems and do not see the benefits of any tradeoffs to offset the increased accident benefits. There are no reciprocal provisions that would allow recovery of the accident benefits paid to a trucker from the insurer of a private passenger vehicle. In essence, the transfers are one-sided.

Also, the potential for a large catastrophic claim is much greater under this loss transfer provision with the enhanced benefits of Bill 164. Essentially, the scenario can be given where a truck could be involved in an accident involving a bus or multiple cars, all of which transfer the loss back to the truck operator and his insurer, who has really no protection from policy limits, because they're all accident benefits.

That exposure is virtually unlimited. It requires us as an insurance company to carry significantly large reinsurance protection, but even then we are unsure at what level to buy this protection. These costs again are transferred into the trucking sector.

The issue of inverse property damage: Section 263 of the Insurance Act provides for direct compensation for property damage. This means that each insurer pays for its policyholder's physical damage when the vehicle is in an accident and is damaged by someone else's negligent conduct.

This is a reversal of traditional liability. For private passenger insurers, this seems to be a satisfactory system. The additional amounts they pay for damage to policyholder vehicles is offset by the amounts they don't have to pay for damage to other vehicles involved in accidents with the policyholder.

For truckers and their insurers, this balance doesn't exist. The costs for damage to trucks is very much greater than the loss to private passenger trucks. This change was

imported by the OMPP and didn't take into account the special needs of the trucking industry.

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With specific reference to the draft regulations, they contain many provisions that are of particular concern to the trucking industry and its insurers.

The definition in section 1 of the regulations includes as insured persons "any person specified in the policy." We are uncertain as to the meaning or intent of this provision. However, commercial automobile insurance does consider that insured automobiles will be operated by many people, and often those people are identified for underwriting and other purposes. If they are all specified, then the insurer of the business vehicle becomes the insurer of these persons, their spouses and the dependants of either. We often have schedules of drivers attached to a policy or part of the application.

The insurer of the truck will be providing an expensive coverage for a large number of people. While most of these individuals will have personal policies to approach in the case of loss, we cannot know that at the time of underwriting and we cannot predict which policy will be selected by the individuals for a claim. A commercial trucking policy is potentially converted to broad personal, portable coverage for a very large number of people. Again, we don't think the trucking industry was considered when this provision was put in. In essence, cost is added, but there are no perceptible benefits resulting.

Section 69 of the regulations provides that a person for whom "an automobile is made available for...regular use" is treated as if a named insured. This section entails providing the additional coverage for the spouse and dependents as well. The concept of regular use is difficult. This will multiply costs with respect to vehicles that have many regular users. No additional benefit is provided in exchange for these costs. The individuals involved will continue to have full coverage under their personal vehicles.

Section 56 of the regulations offers a claimant an option of receiving statutory accident benefits instead of workers' compensation simply by filing a form with the Workers' Compensation Board. The drafters seem to contemplate this option for victims who are pursuing tort remedies, but do not provide any safeguard against nominal elections that are pursued or that result in a dismissal of a tort claim. The claimant appears to be entitled to artificially opt out of workers' compensation. This will add costs to the insurance system and we don't think a great deal of savings for workers' compensation towards insureds.

Our recommendations:

Alterations to the automobile insurance system must take into account the ramifications for the trucking industry and the insurers of that industry. It should not undertake fundamental changes without regard to the brutal impact on a fragile sector of this economy.

In addition to the concerns of the other sectors of the insurance industry, we urge government to dampen the adverse effect on the trucking industry by the following measures:

(a) preclude loss transfer against heavy commercial vehicles under section 275 of the act;

(b) exempt accidents involving heavy commercial vehicles from inverse property damage by amending section 263 of the act, or enact a regulation to allow subrogation for these losses pursuant to clause 263(5)(b) of the act;

(c) revive the draft regulations as follows:

— Eliminate the reference in section 1 of the regulations to “specified persons.” Alternatively, restrict this extension of coverage to private passenger automobiles.

— Eliminate the extension of coverage in section 69. Alternatively, restrict the extension to private passenger vehicles provided for the person’s regular use.

— Eliminate the option of automobile accident benefits for individuals injured during the course of employment. Alternatively, allow recourse to accident benefits only where a tort remedy is actively and successfully pursued. In other cases, the workers’ compensation scheme should deal with the case, provide benefits to the worker and reimburse the automobile insurer.

As we have shown, Markel has made a commitment and investment in loss prevention and safety in the trucking industry through our loss prevention department and driver training school. We know it works to reduce losses and save lives, and we are extremely disappointed that Bill 164 will add to the cost of insurance but that road safety is not addressed. Along with the Ontario Trucking Association, we urge that safety issues be made a major focus of this government.

Bill 164 as it presently stands will have a very negative impact on the trucking industry. We urge the government to listen to the concerns expressed by the Ontario Trucking Association and ourselves. The OTA has provided a letter to Mr Brian Charlton. I’d like to read that, if I may. This is from David Bradley, the president of the OTA.

“Dear Minister:

“During each of the past few rounds of insurance reform, the focus has been upon private automobiles. This is also true of Bill 164. However, a significant commercial automobile insurance market also exists, which must be taken fully into account. The trucking industry is a major consumer of commercial automobile insurance and is, as a result, interested in the impacts which Bill 164 could visit upon our industry.

“Bill 164 has, in places, either not addressed some of the concerns that exist in trucking over the present act, or it raises the prospect of unintentionally impacting upon the industry, where certain measures designed to address the private automobile sector are applied to commercial trucking.

“Moreover, we are very concerned that the changes to the threshold provisions contained in the bill will lead to a return to the costly litigious environment which had existed prior to the introduction of no-fault insurance. We fear this will unnecessarily put upward pressure on premiums once again.

“The Ontario trucking industry is an essential component of the Ontario manufacturing process. It is Ontario’s most preferred mode of freight transportation. Trucks haul 80% to 90% of all consumer products and foodstuffs produced and consumed in the province. It is also an industry that crosses borders. Trucks haul 75% of Ontario’s exports to the United States and deliver 80% of

the province’s imports from the United States. The industry,” as mentioned, “employs approximately 200,000 people.

“To survive, our industry must be competitive. Insurance costs—both claims and coverage—can represent 3% to 4% of total costs. Consequently, we are concerned over any measures which could raise the costs of the Ontario trucking industry, further impairing our ability to compete. Commercial insurance has been one area of cost where Ontario carriers have been competitive with US carriers. Obviously, we want and need to sustain that situation.

“The Ontario trucking industry also has an enviable safety record. This often does not appear to be clearly recognized by the public and policymakers. Data for 1990, compiled in the Ministry of Transportation’s road safety annual report, show that tractor/semi-trailer units were involved in only about 1.5% of all highway accidents. In terms of the type of accident, these units were involved in 1.6% of all accidents where there was property damage, 1.1% of personal injury accidents, and 7% of fatal accidents.

“Moreover, the above numbers reflect the proportion of these trucks involved in accidents, not whether the truck was at fault or not. But, the same Ontario road safety report also shows that trucks are not at fault most of the time. The data indicate that for fatal accidents involving trucks, drivers with a class A licence—the kind needed to drive a tractor-trailer unit—were driving properly in 76.8% of the accidents. The incidence of alcohol as a factor in fatal accidents was 4% among class A drivers, compared to 19% for all drivers (including truck drivers).

“While the industry constantly works to improve its record even further—safety is good business—I believe these numbers are often a surprise to many people who have, for whatever reason, developed a misconception of the industry and its safety record.

“The industry’s safety record certainly indicates that it is not a loss causer, as implied by the loss transfer provisions contained in section 275 of the Insurance Act. Under the loss transfer provisions,” as we mentioned, “automobile insurers can subrogate no-fault payments in excess of \$2,000 from a truck insurer, where an accident between a car and a truck has occurred and the truck has been found to be at fault. No similar right to subrogate is available to the truck insurer. And the cost of a truck is significantly higher than that of an automobile.

“This is blatantly discriminatory. The decision by the former government to introduce the loss transfer provision was not founded on sound actuarial analysis. The perception of trucks as loss causers is at best perceived, but more likely erroneous.

“In our view, Bill 164 should address this issue by deleting the loss transfer provisions as they relate to trucks, unless and until any inequities arise in the system that are revealed through actual claims experience.

“OTA has long been concerned over the potential impact upon a carrier’s workers’ compensation experience rating for benefits paid to a truck driver injured in an accident, but not at fault. We have proposed that the Workers’ Compensation Board be allowed to subrogate from at-fault third parties.

"We do not feel that the option proposed under section 56 of the draft regulations resolves this problem appropriately. Providing a choice between WCB benefits and statutory accident benefits does not remove the WCB experience rating impacts and merely transfers the costs to the insurer. In the end, it all comes out of the same pocket, as companies would have to pay either higher insurance premiums or higher WCB assessment rates.

"We are also concerned that sections 1(a) (insured persons) and 69 (regular use/company automobiles) of the draft regulations may have some unintended consequences for purchasers of commercial insurance. Our concern is that these regulations might be interpreted in such a broad way that a truck driver might be able to claim for family members or other regular drivers of his/her personal vehicle—for which he/she has personal coverage—under the commercial policy of his/her employer. We need either an assurance that our interpretation of what may be possible under the above sections is wrong, or a specific exemption/amendment for commercial trucks.

1230

"Finally, it is our opinion that the persistent focus on premiums that seems to dominate policy initiatives and discussions relating to automobile insurance is not necessarily the most effective approach. It is our belief that the key to lower insurance premiums is improved safety.

"The trucking industry invests in safety and is also subject to a significant degree of government regulation (eg, mandatory vehicle inspections, maintenance programs, driver retesting, hours of service, regulations etc). We are seeking continuous improvement in our safety performance, and often feel that if the average motorist were subjected to some of the same type of vehicle and driver requirements that the trucking industry is, our roads and highways would be much safer. Moreover, we have long advocated a mandatory reduction in the allowable level of blood alcohol content, but have yet to find a government that is prepared to give this proposal serious consideration. These are just suggestions, but we feel there would be merit in your exploring them further."

Again, I would make the point that I think ourselves and the OTA feel that the truck drivers are either forgotten or perceived as the bad guy on the road when these insurance regulations are redrafted, and we would ask again that our considerations be taken into account and that safety be a focus for this.

The Chair: We know Mr Bradley quite well. He's appeared before this committee on budget consultations, and Mr Phillips knows him quite well too. I think for many years we saw him there. Mr Phillips, you're on first, for about three minutes.

Mr Phillips: I appreciate the presentation. I have a general question for you, to do with costs. Based on everything we've heard to date, the minimum that this new bill will cost the people of Ontario is \$200 million. That's going to be the minimum increase in premiums. That will be on top of the normal increases. Just by passing the bill, the increased costs will be \$200 million. That's what the

government estimates. I think other people in the insurance industry feel it could be as high as \$500 million.

We've questioned the priorities of the government saying, "We're prepared to put a burden of \$200 million to \$500 million on the taxpayers to fund this, but we can't afford to do a whole bunch of other things." It's just a question of priorities.

Knowing the trucking industry as well as you do and having a fair idea of this bill, I have two questions. One is, do you have any estimates yourselves of by what the premiums might go up? And if the insurance premiums were to go up by these 5% up to 20% increases on top of your regular ones, do you have any feeling of the impact that might have on our Ontario trucking industry?

Mr Grant: Again, it's difficult to judge this, but we tend to support the IBC view of the increased costs, and we think they are going to tend to be higher for the trucking industry as opposed to private passenger because of loss transfer. We cannot put a dollar figure on it, but I would certainly think that if the IBC is looking at 20%, then we should be looking at something in excess of that.

As you may be aware, when you come to the rating of commercial trucking vehicles, they're not like private passenger vehicles, on a fleet-rated basis. They're usually judged or rated on their experience. So whatever the costs go up is what we will see in our claims, and that's reflected automatically as we develop those.

Mr Tilson: I have two questions. The message you have expressed, which certainly concerns me, is something I think the committee needs to look at. Given that there are increases in insurance, you're warning us that the trucking business, which is probably on a very fine thread as it is, particularly since this government has taken office, the concerns you've had in dealing with competition in the United States and firms going out of business and loss of jobs—how serious is that fear, if these rates go up, as being predicted by such groups as the IBC?

Mr Grant: I can only comment that we visit many of our insureds—maybe I'll ask David to make his comment, because he's closer with the industry directly, but many of them are on the edge. A number of these companies have gone out of business in the last number of years. Unfortunately, I didn't get a chance to get the details of the number, but we certainly have seen the loss of jobs, the loss of small businesses in the trucking sector, and companies tell me they're really on the edge. I would think a slight push is going to hurt a number of these companies. If availability of insurance becomes difficult, it could be—David, do you have anything?

Mr David Gaskin: Some of the standard figures that are being used in the industry in assessing the profitability or the viability of the trucking industry are something in the neighbourhood of 98%-plus for an operating ratio, so profits of under 2%. If insurance costs go up another 1% of revenue, that means these companies literally are operating with no margin. Consequently, any upward movement in insurance costs is going to have a dramatic effect on the trucking industry, and the trucking industry literally is the

connecting link that enables all our employers to operate efficiently.

Mr Tilson: I have one further question in your capacity as an insurance company, aside from your comments with respect to the trucking industry. I'd like you to respond to the minister's comments that were reported in the press, in this morning's papers at least, where he simply said the insurance companies are making all kinds of money, that notwithstanding the fact that costs are going to be going up substantially, you people are making all kinds of money and rates simply will not go up.

Just as an example from the Toronto Sun, he reiterated his indication that in fact the government really supports a government-run system, which is kind of scary. However, he then continues by saying:

"He said insurance companies make enough profit to absorb any increase resulting from the proposed NDP overhaul. The province will get tough"—the iron fist is going to come down on you people, according to the minister, at least—"with any insurance company which tries to pass on unjustified premium hikes, he said. He dismissed insurance industry studies which indicate that rates will jump an average \$200 under the NDP plan."

What's your reaction to those comments?

Mr Grant: My reaction is twofold. One, a major writer, especially a writer of trucking insurance, was the Transit Insurance Co. They ceased writing business in the middle of last year, so if they're making tons of profit, it certainly didn't get to them.

Ourselves, we are operating on an underwrite loss position. It produced profit, but that's fine: We're entitled to a profit. The fact that the OTA states that its insurance rates are competitive is I think an interesting factor, where the buyer of the insurance product is actually saying he's satisfied with the insurance environment that exists. So we don't have a case where the consumer, in this case the trucking industry, is complaining about the cost of insurance. They're saying the cost of insurance is adequate and reasonable and makes them competitive against their US competitors. So if your customer isn't complaining, I don't know—

The Chair: I'm going to go to Mr Phillips again. I cut him off a little short. That's why he was looking at this watch. You have another minute, Mr Phillips, for a question.

Mr Tilson: Did you cut me off too, Mr Chair?

The Chair: No, I gave you an extra minute.

Mr Phillips: I'd just pursue those comments, because I'm preoccupied, almost, with the financial problems of all this. I do believe that the economy continues to struggle very much. As I said earlier, it's really strange to me that the government's prepared to increase the premiums to the taxpayers in Ontario by at least \$200 million to \$500 million and then today, for example, it can't find any more money for social assistance. It's just a strange priority.

But I want to get to your point on the trucking industry, that the industry feels this is one area where, currently at least, it's satisfied. Why in the world would a government then want to impose another cost? Mr Tilson's right. It'll increase the cost to you by about 20% on your premiums.

You're saying here that 4% of your expenses go to insurance. The companies are making perhaps, at best, 2% before taxes. It's going to wipe out their profits, essentially. I think that's what you're saying here. What is driving the government to head in this direction, in your opinion?

Mr Grant: I think the government has not considered the trucking industry whatsoever in this legislation. I don't think it has addressed it and thought about it.

Mr Ward: Thank you for coming forth and giving your views on Bill 164 as it pertains to your particular company. You may not have heard some of the proceedings, but it's my impression that the Conservative Party feels that the pre-no-fault insurance system for motor vehicles was the preferable one, which had an open-ended right to sue. The Liberals, who brought in the OMPP, are now saying that there should be the ability to sue for economic loss.

In the letter from the Ontario Trucking Association, it states, "A return to the costly litigious environment...will unnecessarily put upward pressure on premiums once again." Do you agree with that point of view that the OTA has expressed?

Mr Grant: Yes. We do not wish to return to, as you say, an open-ended litigious situation. We think that's not fruitful for anyone. I'm not here to speak on behalf of the OTA, but I think it's been stated on public record that it's in favour of full no-fault insurance. We basically are supporters of that position.

Mr Ward: Which in essence takes away the ability to sue.

Mr Grant: We are quite happy, and so is the industry, living with the present OMPP.

Mr Ward: You also mention that you support the views of the Insurance Bureau of Canada. I believe you stated they perceive a 20% increase. I'd just like to correct you that their actuary report, conducted by Wyatt, estimated around a 13%, 14% increase. Beyond that, the large portion of their cost concern is with the long-term care, rehab part of insurance.

Now that the government has created the task force to examine that particular issue and look at costs and cost containment, the IBC yesterday said that because of this, until this task force can evaluate, it doesn't even think the Wyatt report and the percentage increase can be fairly accurately stated because of the uncertainties. Do you share that view of the IBC? You said on record you support them.

Mr Grant: All I'm saying with IBC is that we support its position that claims will be higher. Actuaries will get together, hopefully, and put a number on this, but I'm saying we feel it will have a greater impact on the trucking industry.

The Chair: I'm sorry, Mr Ward, I'm going to have to cut you off.

Mr Ward: Mr Phillips got longer than I did, Mr Chair.

The Chair: No, I've been watching real close.

Mr Grant, I'd like to thank you for coming before this committee. This is something new, because we've heard from Mr Bradley quite a few times, and it was fuel, road

taxes, roads and depreciation. This is a new one. Thanks for coming before this committee.

Mr Ward: Before we adjourn, I have a question for legislative research. Mr Tilson made reference to four reports based on costs of Bill 164. I know of two actuaries, Mercer, which is the government, Wyatt, which was commissioned by IBC, and a study that's not actually an actuarial report, by Coopers and Lybrand on behalf of either State Farm or Allstate. But I don't know what the fourth one is. Could legislative research obtain a copy and let us know what that fourth report is?

The Chair: I think there was an article in the paper that stated four. I think that's where some people are getting the information. This will be available to the whole committee?

Mr Nishman: Yes.

The Chair: I've got good news. We'll be back here in room 151 at 2 o'clock sharp.

Ms Haeck: With more heat, hopefully.

The Chair: Some of the members want a little more heat in here. This committee is recessed until 2 o'clock sharp.

The committee recessed at 1244.

AFTERNOON SITTING

The committee resumed at 1401.

The Chair: We're going to resume the hearings on the standing committee of finance and economic affairs on Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters. This is the second day, the afternoon of our hearings.

ACTUARIAL CONSULTANTS OF CANADA

The Chair: The first gentleman coming forward at 2 o'clock here is from the Actuarial Consultants of Canada. Mr Patterson, welcome to the committee. We have until 2:30. In that period of time, when you make your presentation, please leave some time at the end for questions from the committee. You may begin.

Mr J. B. Patterson: I'm a life insurance actuary, by the way. It is important for everyone to be aware of the potential risk of insolvency under certain circumstances once Bill 164 becomes law and to take appropriate action to avoid the potential pitfalls before serious problems develop.

My main submission is in two parts. There's a 30-page submission to the Automotive Insurance Review that I sent a few months ago, and there's a four-page article to appear in the next issue of the Canadian Underwriter. I have highlighted both of these and made a summary, and this brief presentation—and it's on the pink set of papers so you can distinguish them from the rest. I hope I can stimulate your interest to read the others, but I'm only going to cover the five pink pages.

Let us examine some of the possible, serious repercussions. What new problems are the automobile insurers about to face? Under the old adversarial system, claims incurred in a given year were paid by lump sum mostly in that year or, at most, over the next few years. Under the no-fault system, most of the premiums received each year are held in reserve to provide annual claim payments for many years in the future. For the first time, automobile insurers will develop large portfolios of investments. A typical insurer's assets might grow in time to \$100 million. Automobile insurers aren't used to large portfolios.

It is important for this committee to have input from life insurance actuaries and other life executives as automobile insurers have no experience with the problems created by large-asset portfolios. What problems will these large-asset portfolios produce? The automobile insurers are being asked to tread in an entirely new direction. To my knowledge, no insurer in Canada has ever been involved with a product fully indexed for inflation. This will create new, uncharted problems for which there is no experience.

For example, automobile insurers cannot afford to invest in long-term securities of 10, 15 and 20 years. If inflation and related interest rates were to suddenly grow rapidly, large capital losses would be experienced, converting long-term, low-interest securities to required high-interest-bearing securities. Therefore, it will be essential to confine investments to short-term securities. This is a new concept altogether for the insurance industry.

What is the source of money that is going to provide for future full inflation indexing of claims? Obviously, we must depend on the interest yield being in excess of inflation. A typical investor would not invest funds in securities which yielded only enough to cover inflation. Investors insist on earning a real interest rate of 2.5% more than inflation in order to increase their purchasing power. Real interest rates in Canada have been very close to 2.5% for most of the time such rates have been recorded.

Under the adversarial system, awards were calculated on the assumption that the claimant would only earn 2.5% real interest, the rest of his investment yield on his portfolio being needed to cover inflation. Under the no-fault system, if we could depend on maintaining 2.5% real interest every year in the future, the initial reserves to be held for future claim payments would be equal to the old lump sum payments under the adversarial system.

An actuary must be retained to establish a level of actuarial reserves for future claim payments and certify that they are adequate to avoid any risk of potential insolvency. Remember that the reserve is the only source of money to pay future claims.

Can we depend on earning 2.5% every year in the future? In the case of short-term securities issued in 1972 to 1975, yields to maturity were 2.5% less than inflation, rather than 2.5% more than inflation. In 1971 to 1978, yields were less than inflation for issues of the entire eight years.

If an insurer's investment return were 5% short—that's the excess of 2.5% over minus 2.5%—each year for four years, it could suffer losses of 20% of \$100 million or \$20 million. With four further years still 2.5% short, the loss in an eight-year period could grow to \$30 million or more.

Such losses would exceed the entire surplus funds of many automobile insurers. Since there is no certainty that this history will not be repeated in the future, the actuary is forced to establish claim reserves at a significantly higher level than lump sum payments under the old adversarial system.

Will this affect premium rates? In my opinion, with fully indexed, no-fault claim payments, it will probably be necessary to raise automobile insurance premiums by 20% to 25%. A full development of the required rate increases can be found in the main submission to the automobile insurance review that we prepared. This is in opposition to one of the main reasons for adopting no-fault originally, which was to cut insurance premiums.

Are there any investments which can solve these problems? Recently, the Canadian government issued \$700 million of special bonds maturing in 30 years, December 2021, but with the principal at maturity adjusted by full indexing for inflation and with 4.5% coupons in the meantime. This issue was completely sold, so there are no further bonds to be sold by the government. To handle further trading of these bonds, a secondary market has developed, because the government is not prepared to redeem them until after 30 years.

Some automobile insurers with no experience in handling asset portfolios have embraced the idea that these bonds will solve the problem of indexing for inflation. However, this reasoning is fallacious for two reasons. Firstly, since the bulk of the principal and the inflationary effect are deferred for 30 years, the current cash flow arising from the 4.5% coupons will be inadequate to meet the required claim payments each year.

Secondly, if all automobile insurers wanted to acquire such bonds, the large demand would temporarily force bond prices up, perhaps by 50%. Then, as they found the necessity to sell these bonds to meet cash flow requirements, the prices would likely fall, leading to significant capital losses.

1410

How are profits from insurance company annuities taxed? Revenue Canada has a history of accelerating taxes on life annuity products by requiring tax reserves to be set at a lower level than statutory reserves, thus creating higher taxable profits. This is in regulations 1401 and 1403 of the Income Tax Act. However, this prematurely taxes part of the full investment income. For annuity products fully indexed with inflation, the insurer can only afford taxation of the small real investment return as the inflationary aspects of the investment return are required to meet the demands of annual indexing for inflation.

The automobile insurers must negotiate new regulations appropriate to fully indexed annuities; otherwise, the resulting taxes could be devastating. If this is not done prior to the introduction of Bill 164, premiums must be increased still further to meet the uncertain tax atmosphere.

How does all this affect the general public? For starters, widows losing spouses in fatal automobile accidents will receive much lower claims. The \$200,000 limit to the widow of the at-fault driver will be a boon to her. However, the adversarial system, which will still be applicable to accidents other than automobile, attempts to restore the widow to the same standard of living enjoyed prior to the accident, and this involves claims usually of \$400,000 and more, compared to the \$200,000 that will be available to the widow whose husband died in an automobile accident. Also, pain and suffering benefits have been reduced to such a level that they will not be applicable for 97% of the claims.

If a child runs between two parked cars directly into an oncoming car and becomes disabled as a result, the adversarial system would usually find that child to be largely responsible for the accident, and very little, if anything, would be assessed against the driver. Under the no-fault system, the child will receive the scheduled benefits. In a situation such as this, no-fault is the choice to be recommended. It would be hard to find anyone who would disagree with this.

However, if a car stopped at an intersection for a red light is hit in the rear by an intoxicated driver with previous driving convictions who was driving well in excess of the speed limit, and if as a result both drivers receive serious spinal injuries, the public would find it abhorrent if both the innocent driver and the at-fault driver were to receive

the same level of benefits, the initial reserve for which would be \$2 million for each driver.

Suppose the average man in the street were asked if he agreed that benefits should be paid without any consideration of fault, regardless of the circumstances, even though it meant that his automobile insurance premiums were going to increase 20%, that he would probably forfeit all pain and suffering benefits, and further that if he happened to die in a fatal automobile accident, his widow would receive only 50% or less of the benefit that would be paid to a widow whose husband had died in another fatal accident not involving an automobile. Such a man in the street would probably be repelled at the idea of giving up so much in order to pay substantial claims to a person who could've easily avoided the accident in the first place.

In the Report of Inquiry into Motor Vehicle Accident Compensation in Ontario, the Honourable Mr Justice Coulter A. Osborne stated on page 545:

"The idea that both the innocent and the drunken driver should be compensated equally tends to offend many people's sense of justice. The moral issue raised by this example becomes even more difficult when no-fault benefits are increased. Cases of this kind are few in number, but they do serve to emphasize the importance of the idea of fairness in our society's system of values.

"It is the public's sense of fairness which has caused the no-fault movement in the United States to stall, if not stop."

I now have three suggestions to ease the initial burden on the automobile insurers and to reduce or eliminate the need for increases in premiums.

First, delay the introduction of Bill 164 until actuarial reserve standards have been adopted by the Canadian Institute of Actuaries and the automobile insurers have reached a satisfactory agreement with Revenue Canada on appropriate tax levels for this product. This will reduce the need for conservatism and the potential increase in premium rates.

Second, consider a modified definition of no-fault, with the compensation varying with the type of fault and with lower benefits for the at-fault driver who could clearly have avoided the accident. This is developed more fully at page 26 of our submission to the automotive review.

Finally, introduce Bill 164 in two stages and continue the right to sue for serious, permanent physical injury, disfigurement or death for two years, until the system is functioning smoothly for less serious cases. These claims tend to magnify the difference between the no-fault approach for automobile claims and the adversarial approach applicable to other types of claims. There are relatively few cases of this severity, and since they will all involve pain and suffering in excess of the \$15,000 deductible, reference to the adversarial tort system will be made anyway.

In the enormous changeover to fully inflated claim payments, many problems will have to be solved. It might be better to tackle the 94% of cases that are relatively simple and solve all these problems before attempting the far more complex problems of the remaining 6%.

Health care professionals will tend to recommend extensive rehabilitation procedures designed to restore enjoyment of life even though there is no hope of a return to the workforce.

Technology in the field of rehabilitation is developing rapidly. It is now customary, in the case of serious spinal cord injuries, for the rehabilitation professional to strongly recommend voice-activated computer and environment control equipment. A few years ago, such equipment did not exist. As such technology develops in all areas of disability, greater and greater demands will be placed on the insurers by the rehabilitation industry, creating future costs for disabilities arising from automobile accidents that would never have applied in similar disabilities from non-automobile accidents settled by lump sum payments.

No-fault insurance is an open invitation for the development of innovative technology in the rehabilitation field. This of course is a boon to the disabled person, but a significant proportion of the cost will be borne by the automobile insurers.

Such development will also lead to the possibility of incurring more costs for strongly contested assessment and arbitration proceedings to settle on the necessity of adopting these techniques.

As well as the fact that these cases will have a disproportional effect on automobile insurance costs, it is also a fact that they are the ones which receive the greatest publicity. The practice of making lifetime provision for a person who created his own disability by impaired driving will be open to scrutiny and debate in the press. The comparison between a widow from an automobile accident and a widow from another type of accident is also bound to be reported.

It might be prudent to apply the no-fault legislation first to the simpler disability cases and develop smoothing systems before tackling the more complex disabilities, where there is not only a risk of substantially increasing the insurer's liability in the case of some types of disabilities but also of leaving claimants with other types of disabilities, such as those in comas, in hopeless situations.

That's the end of my presentation. I'll be glad to answer any questions you might have.

The Chair: We'll start off with Mr Harnick. Four minutes per caucus.

Mr Harnick: I'm interested in your comment on page 4, where you state, "It is the public's sense of fairness which has caused the no-fault movement in the United States to stall, if not stop." My research into US jurisdictions indicates that, to a very large degree, no-fault schemes and threshold schemes in the United States have not been, in the long run, money savers for the insurance industry or for the premiums people have to pay. Do you have any comment to make about that?

Mr Patterson: I didn't study the US situation myself. I did get a copy of this Report of Inquiry into Motor Vehicle Accident Compensation in Ontario, from 1988. This is a summary, and there are two volumes of main report. I just simply quoted Mr Justice Coulter Osborne.

Mr Harnick: You see, on page 11 in your longer report you state, "Once additional costs to the automobile insurers created by the statutory accident benefits schedule

become known, it may well be found that such costs are in excess of the savings in court and other legal costs."

Mr Patterson: I'm talking about administrative costs there.

Mr Harnick: Exactly. The cost of processing a claim, correct?

Mr Patterson: Yes. In this brief presentation, I didn't have a point to cover it.

Mr Harnick: I know that Mr Justice Osborne stated that as far as he was concerned, over the long term the administrative costs in a no-fault system would be greater than the administrative costs in a tort-based system.

Mr Patterson: I think greater than all the legal costs.

Mr Harnick: Yes, and that would be your conclusion as well.

Mr Patterson: Nobody can be sure until you try it and you put it into effect and see how it works.

1420

Mr Harnick: But as an actuary, and based on your experience—and I know of your reputation in this field for a long time—would that be a conclusion that would be an unreasonable conclusion to make at this time?

Mr Patterson: No, I don't think so. I think it's reasonable to assume that it's going to be very expensive to administer.

Mr Harnick: Yes, particularly when we get into a scheme of very much enhanced benefits between the OMPP and Bill 164. Would you agree with that?

Mr Patterson: Yes. Also, the schedule has various stages of income replacement: It isn't set for life; it's reviewed from time to time.

Mr Harnick: Yes, so the costs are going to continue, under Bill 164, to escalate rapidly. Would you agree with that?

Mr Patterson: Yes. I don't know for sure until we have actual experience, though.

Mr Harnick: But ultimately the premium costs under Bill 164 are going to go up.

Mr Patterson: In my opinion, yes.

Mr Harnick: And the rights that innocent victims have are going to accordingly become less and less, because innocent victims are essentially paying for the wrongdoers as well. Correct?

Mr Patterson: Yes. You're going to double the number of claims because you're bringing the at-fault drivers in with the not-at-fault drivers.

Mr Harnick: There's just one other issue I want to deal with, just so we all understand this. In terms of the tort-based system, reserves are set and carried by the insurers from year to year, and then ultimately the payout is made.

Mr Patterson: Yes, but that's just a few years after the year of the premium.

Mr Harnick: Exactly. But under this scheme, particularly when we're talking about Bill 164 and the enhanced benefits that might be payable, that is something that

administratively, an insurance company is going to have to reserve from year to year, and in some cases for ever.

Mr Patterson: Yes.

Mr Harnick: And the administrative cost, I would think, of insurers carrying on their books these kinds of claims indefinitely would be very costly. Am I right in that?

Mr Patterson: They will be costly. I think the actual payment of the claims will be equally costly.

Mr Harnick: In a sense, by going to an enhanced benefit system such as we're going to, it would seem to me that from an insurer's point of view, these cases never end, do they, some of them?

Mr Patterson: They end.

Mr Harnick: But the payments continue.

Mr Patterson: They go down when the person reaches age 65.

The Chair: Mr Harnick, I've got to go on to Mr Owens.

Mr Owens: I'd like to thank you for your presentation, Mr Patterson. I have a couple of questions for you.

Mr Harnick referenced a comment on page 4 with respect to the public's sense of fairness. I don't read that in isolation. Above that, you talk about the issue around the innocent being hit by a drunken driver and that the public's sense of fairness is offended by the fact that there appears to be a payment for the intoxicated driver. I'm wondering if you're aware that under our proposed accident benefit regulation, a person who's convicted of drinking and driving and any other indictable offence will not be eligible for income benefits.

Mr Harnick: On a point of order, Mr Chairman: You know, I thought I made myself clear this morning.

Mr Owens: That's not a point of order.

Mr Harnick: Well, no, it is a point of order.

The Chair: Wait a minute. I just want to hear him out.

Mr Harnick: You're misstating what was said. What I said—and if the member is going to quote me, as he is doing, he'd better be accurate. The fact of the matter is, what I said was that people will drink and they will drive and they will cause accidents, but they may not be convicted, for a myriad—

The Chair: That's not really a point of order.

Mr Harnick: Well, it is a point of order, because he's misquoting me. The fact of the matter is, people can still have alcohol in their blood and be the cause of accidents without being convicted—

The Chair: I'm sorry. It's not a point of order. Mr Owens.

Mr Harnick: —and for some reason, Mr Owens doesn't want to accept that, because it points out a major defect in Bill 164.

The Chair: It's a difference of opinion. I'm sorry, Mr Harnick. Mr Owens.

Mr Owens: Just in terms of your report, it doesn't appear to be a complete actuarial study in the manner that

was conducted by Mercer for the auto insurance review. You have formed an opinion that there's going to be an increase in premiums as a result of Bill 164 being instituted.

On page 5, you talk about "No-fault insurance is an open invitation for the development of innovative technology in the rehabilitation field." I'm wondering if you could express your view on the task force that was announced by our minister, Brian Charlton; how it's going to affect your opinion in terms of price increase when standards are set for rehabilitation and standards of care. Do you see that as having a positive effect in terms of controlling cost?

Mr Patterson: As I read the schedule, there's a great deal of decision-making left up to rehabilitation experts and doctors. They will be listened to and their opinion will have some weight in paying claims. The rehabilitation people are, of course, interested in maximum rehabilitation, and the technology is going to increase. They're going to try to introduce that technology, and I think it might increase claims.

Mr Owens: We agree that at this point there's cause for some concern, which is why the task force was set up in terms of developing standards to look at exactly what kind of attendant care is required for the person. I think that demonstrates very clearly that we've listened to the concerns of people like yourself, the Insurance Bureau of Canada and other intervenors in this process.

The Chair: Mr Phillips.

Mr Phillips: I appreciate the presentation. What I'm interested in is what this is going to cost the people of Ontario because, in effect, whatever costs are associated with this, they'll have to bear, as they have to carry the coverage. Based on what we've heard so far from the government testimony, the minimum this is going to cost is \$200 million. That's what's going to result in increased cost to the people of Ontario. Your estimates are considerably higher than that: Your estimates, I think, would take it up to probably \$500 million.

The reason I raise this is that the government earlier this morning said: "We're sorry, but the social assistance people in this province will not get the 2% we promised them. We can't afford it." That saved the taxpayers \$60 million, but the bill we're dealing with this afternoon will cost the people of Ontario 10 times that amount of money, if your numbers are correct. In my opinion, it's a strange set of priorities that the government's pursuing and saying, "We're going to pursue this, that will every year take out of the people of Ontario anywhere from \$200 million to"—your estimate I think would be \$500 million to \$600 million.

You and your document, I think, suggest premiums could go up as much as 20%. What would be your most conservative estimate of the increase? That's your most accurate one, but what would be your most conservative estimate of the increased cost?

Mr Patterson: There are two kinds of actuaries. There are life insurance actuaries and there are casualty actuaries. What I've attempted to do is interject into this picture certain questions and points which the life actuary would introduce, to do with portfolios of assets and taxation

and so on. But when it comes to actually formulating the premium rates, once the reserves that the life actuary would require are known, the casualty actuary is far more qualified to answer than I am. I explained my reason for 20% in my paper, but I'm not a casualty actuary.

Mr Phillips: But it's helpful to have your numbers on the record; I appreciate it. Thank you.

The Chair: Mr Mancini.

Mr Mancini: Sir, on page 20 of your brief you state that rates may increase "by amounts ranging upwards from at least"—and I underline "at least"—"22.5%." Is that correct?

Mr Patterson: That's in my opinion.

Mr Mancini: On page 6, you state that the total loss of income and future care claims for bodily injury will at least double in cost. Is that correct?

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Mr Patterson: On page 6? Which paragraph?

Mr Mancini: You stated, "The total loss of income and future care claims for bodily injury would double," in cost.

Mr Patterson: What paragraph are you in?

Mr Mancini: I made notations. I don't have the document in front of me now.

Mr Patterson: I think the point I was trying to make is that we're adding all the at-fault drivers to the no-fault drivers. That's all I was saying.

Mr Mancini: I appreciate that. We're just trying to re-establish the fact that Bill 164 is going to cause greater administration, greater cost and is going to in fact punish many people because it takes away the right to tort for economic loss.

Mr Patterson: Yes.

Mr Mancini: Would you agree that the \$15,000 deductible for pain and suffering does not eliminate the insurer's cost of investigating and handling potential claims, as this system has no historical or actuarial precedent?

Mr Patterson: If the bill is passed, all the economic losses will be eliminated from the tort system, and there will only be the pain and suffering left.

Mr Mancini: Exactly what I said.

Mr Patterson: If there's a \$15,000 deductible, I think most insurance companies, without any investigation whatsoever, will recognize that most of the cases will just not fall in that limit.

Mr Mancini: But don't you believe that they will have to investigate these claims none the less?

The Chair: I've got to cut off here. Mr Patterson, I appreciate you coming before this committee with the information you've given. As you see, the members had a lot of questions. I imagine we could spend another half hour or so. Thank you very much.

MEL SWART

The Chair: The next presenter we have is Mr Mel Swart. I'd like to recognize Thelma in the audience also. Do you need your right-hand person to give you a hand? I

bet she's done a lot of filing and picked up a lot of telephone calls for you in her day. Mel Swart, the former MPP for Welland-Thorold. Welcome, Mel. I think you know some of the rules around here.

Mr Mel Swart: I'd just say to you, Mr Chairman and members here, that Thelma thought it was a pretty tough life being the wife of an MPP, but once she had me home all the time, she found it was worse.

The Chair: Welcome, Mel, to the committee. You may begin. We have 20 minutes.

Mr Swart: Thank you. Just a few preliminary remarks, if I may, Mr Chairman. First of all, I want to thank the subcommittee for adjusting time so that I could be here this afternoon.

Second, I want to say a friendly hello to some of the colleagues I sat with here at Queen's Park and some of the people I've met on various trips across the province.

I also want to say that I won't be reading from the brief, because it will be too long. I'll be reading from a summary of the brief, but I think you'll be able to follow it okay in the brief. But the brief is the important document. It provides elaboration, it provides explanation, it provides documentation on where the figures came from.

I want to admit immediately that there are certain improvements under Bill 164, such as indexing, removing caps, improved rehabilitation etc, but I must say that on balance, Bill 164 is little more than a costly and a counterfeited imitation of the real thing promised to the people of Ontario on that public auto insurance.

Technically, I'm presenting this brief on my own behalf, but in reality, I'm representing the great majority of the 35,000 NDP members in this province who are upset and disillusioned with Premier Rae for discarding public auto insurance. Some 90% of the delegates at a 1992 convention in Hamilton rebuked him by voting in support of a resolution declaring that public auto insurance was still NDP policy and calling on him and his government to introduce it at the earliest appropriate time.

In addition, I am speaking for hundreds of thousands of motorists in the province who voted for the NDP to get lower premiums and fairer treatment under the promised public non-profit auto insurance system.

Everyone here knows that for more than six years, and particularly in the last two general elections, the Ontario NDP made public auto insurance the overriding issue and promised its implementation when we came to power in this province. Hansard is full of comments by our NDP leader, Mr Rae, promoting public auto insurance and ridiculing Liberals and Conservatives for proposing Band-Aid alternatives instead of introducing a public plan such as they have in Manitoba, Saskatchewan and British Columbia.

I have here more than 100 pages of questions and comments the Honourable Bob Rae made when he was Leader of the Opposition. I think I'll take time to quote one. This is from Hansard, January 17, 1986. It's part of a question Mr Rae asked Mr Kwinter, who was then the minister.

"Why has he not recognized that there is better service, better value for the dollar, better value for the consumer and better protection for car drivers in those provinces that

have public insurance plans than there is in Ontario? Why does he not have the courage to stand up to the insurance companies in this province and say to the people of this province, 'You are being ripped off'?"

That's from Hansard, and that's the kind of thing that was said in this House for five or six years.

As everyone knows, just one year after forming a government, that same leader, as Premier, announced that he wasn't proceeding with a public system, and said, "We don't intend to revisit this question or return to it or relive it, believe me, over time." That decision to kill rather than postpone the public plan was made by Premier Rae alone, without discussion with or approval of the NDP, his caucus or even his cabinet. Simply, it was a personal and massive breaking of faith with the New Democratic Party and the public of this province, and the reasons he gave for doing it won't stand up under any in-depth scrutiny.

All of the NDP governments in the western provinces, since first coming to power, have meticulously kept their pre-election promises and other promises they made while they've been in power. Unlike them, the current Premier of this province, through auto insurance and other subsequent reversals, has broken an array of substantive promises to a degree unacceptable by any responsible political standards.

I raise this issue right at the beginning because I'm concerned that it has not only damaged NDP credibility but has heightened public cynicism towards politicians. I say this not as a platitude; I say this with real concern. There may well be a problem for any party to govern if the level of cynicism among the public continues to increase. I think we must recognize that democracy is fragile. We certainly see that around the world.

I want to come to Bill 164 now. I see three main faults in Bill 164. There are other things I'd like to talk on, but time doesn't permit.

(1) The first is with the proposal to eliminate the right to sue for economic damages but permit suit for pain and suffering. Incidentally, I should preface that by saying that over and over again the minister said three times as many people are going to be able to sue; they are, but the pot the money comes out of is going to be smaller than it was under the former legislation we had.

According to the consultant to the government, William Mercer, this new NDP legislation will reduce total court awards, to the few injured persons who can sue, by another 15%. To provide fairness, the right to sue needs to be expanded, not further restricted. In my view, it is wholly inappropriate for guilty drivers to get as much or even more than the innocent victims in claim settlements. Determination of compensation for both serious residual physical injury and major ongoing pain and suffering are the very minimum conditions where tort action should be permitted. I recommend that Bill 164 or its regulations be expanded accordingly.

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(2) The main result of abolishing the right to sue for 95% of accident victims, or 85% under the Liberal legislation of 1990, was to reduce—and this was the main result; it cannot be denied—the claims paid out to accident

victims, in 1991, by \$323 million and increase the profits to the insurers by \$454 million. That was the net result.

Now the insurance companies say they will require another 19% increase in premiums, \$100 to \$200 per car, due to the provisions of Bill 164. And they will get it. I've heard the minister say that there won't be any increase or only a minor increase. I suggest that's not what will happen, from experience.

Shortly after Premier Rae said he was killing public auto insurance, the minister in charge, Brian Charlton, said the private insurers were cooperating and that premiums would be reduced by 10%. It didn't happen, and that angered the minister. According to the *Toronto Star*, he said on March 26, 1992, that the province may resurrect public insurance if companies didn't give drivers a break on benefits and premiums. Specifically, he was quoted as saying, "Either they're going to play ball with us to make a fair and affordable system work in the private sector or they're going to end up talking about their own funeral."

But the Honourable Bob Rae quickly pulled the rug out from under the minister on that threat. The next day, the Premier went public and said, "His government has no plans to resurrect public auto insurance." The minister backed off with these words. "It was an analogy that I was making which has nothing to do with what I'm promoting." The government, he said, "has taken public auto insurance off the agenda."

I ask you, does anyone really believe that this government is going to legislate or fight on behalf of the motorists, against the insurance industry, when the Premier has lost the will to do so and has in fact disarmed his own minister? Simply, motorists are going to pay increases based on what the insurance companies want.

(3) The third main fault I find in Bill 164 is that this NDP legislation provides that no-fault income replacements and death benefits be tied to income. A person making \$90,000 a year can get his total net income replaced the same as someone making \$25,000 a year. The death benefits for the high-income earner would be \$200,000, compared to \$50,000 for the low-income earner. The availability of these higher limits may be desirable in themselves, though I really question whether the life of one person is worth four times the life of another person.

But the real question is, who is going to pay for it? The two persons in the above example, with the same car, the same driving record and in the same area, will pay the same insurance premiums. Thus, in a very substantial way, the low-income earners will be subsidizing the high-income earners. That proposal of the Rae government has to be the most unjust policy that any social democratic government could design. Surely the reasonable way to deal with this situation would be to leave those no-fault benefits at the medium-income level and offer an optional purchase of higher benefits for the high-income earners. That seems to be a sensible way to go.

Yes, I say highway robbery is alive and well in Ontario, and will continue to be under the Rae government's Bill 164. Simply, Bill 164 is a grotesque perversion of what the NDP have long advocated and what the party stands for.

Now I want to talk a little bit about the benefits of public auto insurance. Saskatchewan, Manitoba and British Columbia have had public auto insurance plans initiated by the NDP government for from two to more than four decades. The 1991 average insurance rates were: Saskatchewan, \$368; Manitoba, \$412; British Columbia, \$624. By contrast, Ontario drivers paid an average of \$735. That is research done for the Honourable Mr Peter Kormos by the legislative research branch of this Legislature.

The BC system offers the best overall comparison with Ontario's, even though its premiums are lower, its payouts are higher, its benefits are better and it has eliminated the great unfairness and discriminatory practices of the Ontario system. Higher payouts by the Insurance Corp of British Columbia are documented here. There's full right of suit, which gives a higher payout. They pay 4% premium tax and pay hospital costs to the BC government. Here, the right to sue is and will be almost non-existent, and insurance companies pay nothing towards hospital costs and only 3% tax to the government.

Also, the rates of accidents, injuries and death in BC—which has, of course, an almost 100% urban population—are substantially higher than Ontario's; of course this requires payout of benefits proportionally to more people.

There is no secret why BC settlements are higher and their rates are cheaper. ICBC is far more efficient and operates on a non-profit basis. Their total brokers' commissions and administrative expenses in 1991 were 10.5% of total revenue; that's premium plus interest on investment. In Ontario, with private insurers, it was 17.3%, almost 70% higher. ICBC skimmed off nothing in profits. The private insurers here skimmed off 14.6%. Put another way, BC paid out 79 cents of every revenue dollar received in claims for accident victims. Ontario insurers paid out only 58%. That's in 1991, the last year for which you can get figures.

Simply, if ICBC—and this is the significance of what I'm saying—had been operating Ontario's benefit system in 1991, the savings would have been \$335 million in expenses and \$705 million in profits, for a total of \$1.04 billion in savings in one year. With total premiums of \$4.222 billion, the Ontario motorists would have realized savings of almost 25%. I say to you that the only real difference in the situation between now and the time that Premier Rae and I coauthored Highway Robbery in 1987 is that then he fought for the motorists' interests; now he appeases the insurance industry.

Unlike the system in BC, Bill 164 keeps most of the old injustices and discriminations here intact. In BC, higher rates are charged only for bad driving records and are assessed against the driver, not the car. In Ontario, age, sex, marital and family status have a major bearing on rates regardless of driving record; there are charts in the brief to show this. In Toronto, an 18-year-old male pays four times as much and an 18-year-old female pays twice as much as a 38-year-old, whether male or female, all of them having a clear driving record. New drivers of any age are charged excessive premiums. If there is a break in coverage for a year or two, rates rise, and on and on and on.

Under Ontario's system, there are, according to best estimates, 200,000 or more people driving without insurance; as a study was done in 1984 shows, they are young people generally. There's a loss of at least \$200 million in premiums and a real danger to society. This doesn't happen in BC, because no one can buy plates or stickers for their automobile without buying their insurance at the same time. The two are sold as an indivisible package, in force for the same length of time.

The minister has indicated that down the road he intends to use a permitting section of Bill 164 to eliminate discriminatory rate-setting practices. I say it won't happen, for several reasons. First, if he is really serious about it, that kind of stuff would be in the bill or in the draft regulations. Second, the insurance companies are vigorously opposed to this, as everyone knows. Third, Bill 164 will substantially increase rates. Dramatically lowering premiums for good young drivers and eliminating other discriminations under the private system will cause another increase in rates for other drivers; I think that's very natural. The only way the elimination of discrimination can be effected without passing more costs on to other drivers is through the great savings of a public system.

I say again, the ICBC type of plan was what the Honourable Bob Rae promised. The abysmal Bill 164 is what he delivered. I say, for shame, for shame.

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Similar to our public health system, public auto insurance was first initiated by an NDP government in Saskatchewan many decades ago. Despite great opposition, it was undertaken and implemented by persons with great vision and courage, like Tommy Douglas. Later it was put in place in Manitoba and BC when the NDP won those provinces. Again, there was great opposition from the insurance industry, the Liberals and the Conservatives, but the NDP went ahead.

As with health insurance, those public auto insurance plans have been so successful that no Liberal, Conservative or Social Credit government dared dismantle them. Even the brokers in British Columbia, who receive less commission than Ontario brokers, find the system so much simpler and better for the public that four years ago 94% of them registered their opposition to a \$1-million bid by Ontario-based private insurers to have ICBC dismantled and the auto insurance given back to the private sector. Poll after poll in all provinces demonstrate that the public feels the same way.

However, the Honourable Bob Rae has arbitrarily declared that the NDP will never provide the people of Ontario with a public plan, not because it's not good for them but because he hasn't the will to proceed. I want to say that's not NDP policy and it cannot be accepted.

I'll just interrupt myself here to say that I notice in today's paper that the Honourable Brian Charlton, perhaps in sincerity, says that the public plan isn't off the NDP programs yet. I want to say, with all due respect to Mr Charlton, that it is Mr Rae who speaks for the NDP government of this province, and Mr Rae has said that it will never be.

I conclude by saying, recognizing that this all-party committee is dominated by NDP members, I urge you to recommend that Bill 164 not be reported but instead be replaced by the public auto insurance system promised so often and so sincerely by the Ontario NDP.

Thank you, Mr Chairman. Glad to answer any questions if I'm able to.

The Chair: We've only time for one question from each caucus. Mr Owens.

Mr Owens: I feel a little like an adolescent about to question his father's authority for the first time. In terms of some of the comments you made with respect to the bill, I'm pleased that you don't hate it totally. You do mention that there have been some improvements over the gift the Liberals gave to the insurance industry.

I'd like to ask you a question, especially around the right for individuals to sue for pain and suffering, those who were left out of the OMPP plan, those with psychological or cognitive injuries. Do you not feel that's an appropriate route to take to allow those individuals access to the courts?

Mr Swart: Yes, I do, Mr Owens. If you followed my brief, you would know that I suggested that the compensation for lost income, as already in the OMPP, be retained and that this be added to it. That's the minimum, I suggest, that should be done.

The Chair: Mr Mancini.

Mr Mancini: First of all, I would like to welcome Mr Swart back to the Legislative Building, where he served with great distinction for many, many years and had great public support from the people of Welland-Thorold and elsewhere across the province.

As I said yesterday, I may have disagreed with Mr Swart philosophically on whether or not government-owned automobile insurance was the right way to go, but what you heard from Mr Swart was certainly what you got.

I am surprised, actually, that many of the things you have said today have in fact been said earlier by a wide variety of groups. You've chastised Mr Rae for his broken promises. You've mentioned very clearly that the proposals in Bill 164 will cost the Ontario public a great deal of money, and they may in fact be getting less money because, as you said, the pie is smaller. Other people have said that. You've agreed that disruption is being caused in the industry. You've also given us a new bit of information that I wasn't aware of.

The Chair: Mr Mancini, could you get to the question?

Mr Mancini: From reading public reports, I thought Bob Rae and the NDP government broke their promise on government-owned automobile insurance after a cabinet meeting at the Honey Harbour retreat, but you tell us today that this promise was broken without consultation with members of the caucus or the cabinet, so that's a new bit of information.

Mr Owens: That's a question?

Mr Mancini: Are you the Chair, or is Mr Hansen the Chair?

The Chair: Just ask the question, please.

Mr Mancini: Is he your sidekick, or what's going on here?

The Chair: He's the parliamentary assistant; that's it.

Mr Mancini: We have been maintaining, Mr Swart, that it is possible for Bill 164 to cost the Ontario public anywhere from almost \$200 million to upwards of \$565 million to implement; that money coming right from the hardworking taxpayers of this province. I want to know from you, Mr Swart, whether or not, in your opinion, we are better off with the Ontario motorist protection plan as compared to Bill 164 and its 68 unintelligible pages of regulations.

The Chair: Okay, that's the question. Let Mr Swart answer it.

Mr Swart: I think perhaps I covered that in the brief. I believe that, on balance, there are benefits in Bill 164 which don't exist under the OMPP; there are some things, of course, which I feel detract from the OMPP. On balance, I doubt that the improvements in Bill 164 are going to be worth the money it's going to cost the taxpayers.

Mr Mancini: Did the Chair hear the answer?

The Chair: Yes. Mr Tilson, one question.

Mr Tilson: Mr Swart, thank you very much for coming to the committee and giving your thoughts. As a new member to this Legislature and as critic for the Progressive Conservative Party, I must say that whenever the subject of auto insurance comes to the House, your name somehow seems to be mentioned. You obviously have a great deal of respect from all three parties, so it's a pleasure to see you coming to his committee.

I must say, sir, that I obviously do not agree with some of your thoughts and I agree with other of your thoughts. I'm sure you can appreciate that. The one thing that shocks me is the new piece of information you have brought to us today. We realize that when a man of your stature, a member of this House for so many years, has come to this committee, obviously in frustration after listening to what Mr Rae has been given through instructions by his party and possibly even his caucus—we don't know what goes on in that place. The way you're speaking, I suspect it is a one-man show. That arrogance you have painted of the Premier of this province—you have painted a very serious picture, an undemocratic picture, of a Premier of this province concerning the whole subject of auto insurance and the philosophy of the New Democratic Party.

The Chair: Have you got a question?

Mr Tilson: Well, if you give me a chance. I know you people are nervous about this, but give me a chance. The fact that you have come to this committee and have painted this picture of the Premier: Are these facts serious enough that the Premier should resign?

Mr Swart: I don't think it's up to me to answer that question. As you know, I have some very strong reservations about his performance to date. I'm not sure it was arrogance that made him make that statement. I want to make it perfectly clear that I am not here saying that the decision to postpone or the decision not to bring in auto insurance now wasn't approved by cabinet. What I am

saying is that his statement that it would never be revisited was made by him and him alone.

Mr Tilson: He is the Premier.

The Chair: Mr Swart, we're out of time; we've actually gone over. We'd like to thank you for coming before this committee.

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Mr Harnick: I see that the next item on the agenda is recess. Can I ask for unanimous consent that we forgo our recess and maybe have some extra questions for Mr Swart, if he doesn't mind staying?

The Chair: That's no problem. I've got no problem with that, but we're right at 3 o'clock now. We went through recess. You didn't realize that?

Mr Harnick: I wouldn't mind staying for another half an hour, then, if we could have unanimous consent, because it's not often we get someone of Mr Swart's knowledge and stature to have the opportunity to question on an issue so important as this.

The Chair: I'm sorry.

Mr Harnick: Wait. Just hear me out, because I'm entitled, as a member, to bring a point of order forward. What I would like to ask for is the unanimous consent of my colleagues here to maybe spend a few more minutes so that we all might have an opportunity to go around the table again and ask Mr Swart some questions. I would like to ask for unanimous consent, if that's possible.

Interjections: Agreed.

The Chair: Is it unanimous?

Interjections: No.

The Chair: It's not unanimous. Sorry.

Mr Harnick: Could we have a recorded vote? I would like a recorded vote.

Mr Tilson: Mr Chairman, I would make a motion, as worded by Mr Harnick.

The Chair: You want a recorded vote? The motion made by Mr Tilson, how many in favour?

Ayes

Harnick, Mancini, Phillips, Tilson.

The Chair: Opposed?

Nays

Dadamo, Haeck, Johnson, Klopp, Owens, Ward.

The Chair: Thank you for coming before the committee, Mel.

Interjections.

The Chair: I would say that Mel will be out in the hallway and will answer a lot of questions there.

ONTARIO PSYCHIATRIC ASSOCIATION

The Chair: Would the Ontario Psychiatric Association come forward, please? Dr Hector, I believe? We have a half-hour, until 3:30. In that half-hour, could you make your presentation and leave some time at the end? As you can see, the members get very excited if they can't ask more than one question. You may begin.

Dr R.I. Hector: Thank you very much indeed. With respect, I doubt that I shall generate the enthusiasm or excitement of the former member, but I do represent the Ontario Psychiatric Association, and perhaps I could just introduce myself.

The Chair: Maybe we should just wait 30 seconds until everybody's out the door. Sir, do you have a brief?

Dr Hector: No, I don't.

The Chair: That's fine. I just wanted to know.

Dr Hector: We have a short submission.

The Chair: Fine. I'm a little hard of hearing, so if you can speak up a little, it would help me.

Dr Hector: I will do my best. Perhaps I might introduce myself, simply to state my own background in respect to this—

Mr Johnson: On a point of order: I think it would be appropriate, Mr Chair, if we wait until there is a semblance of order in this room so we don't offend this presenter. I think what he has to say is as important as anyone who comes before this committee.

The Chair: Okay, it's quiet now. Dr Hector, carry on.

Dr Hector: Thank you. Perhaps I might just introduce myself. I am representing the Ontario Psychiatric Association. I am a psychiatrist in private practice now in Toronto. I was, for 23 years, the senior staff psychiatrist at the Wellesley Hospital and for 11 years its psychiatrist in chief. I was, during that time, associate professor with the department of psychiatry at the University of Toronto and had, as a result of that, cross-appointments to the Clarke Institute of Psychiatry and to the Princess Margaret Hospital. I have been president of the Ontario Psychiatric Association and of the Medico-Legal Society of Toronto. With that background, I'd like to express our thoughts about Bill 164.

First of all, I would like to and we would like to applaud the government for recognizing what we too felt was a serious injustice with respect to the psychologically injured person under the previous insurance plan. We think that permitting the individual suffering pain and suffering psychological injury to sue for damages is an appropriate and proper introduction under the new act.

However, we still have two concerns about the act as it's currently written. The first has to do a bit with the history of psychiatry as a medical specialty. In a sense, and for practical purposes, psychiatry came into its own during the Second World War, when it was recognized broadly that psychological and social issues were significant issues in terms of wartime disability and the assessment of wartime injury. Psychiatry gained recognition as a medical specialty during those years and in the years subsequent to the Second World War. It's ironic, I think, that it was in the context of that assessment of the injured soldier that psychiatry gained a respect and a credibility within medicine as a whole.

One concern with this bill is that it appears to retreat from that integration of psychological medicine and general medicine, if you will, into a situation where physical injury

will be recognized, but we're concerned that the psychological aspects of injury and the disability resolving from that will not be recognized.

After all, physicians are basically in the business of assisting their patients. What we're concerned about is that physicians, recognizing the fact that physical injury is a compensable benefit, potentially, but that psychological injury is not, may tend to overrepresent physical injury in their patterns of diagnosis and therefore underrepresent the recognition of psychiatric, psychological and social issues, both in the assessment of the injury and in the assessment of the disability, which, after all, is a social issue, not a medical issue, in respect to those injuries.

If they do that, then of course our capacity to participate in the care of the patient will be appreciably diminished, because we do recognize the fact that a psychiatric diagnosis does carry, in spite of all of the awareness of psychological medicine today, its own stigma. So we would like to suggest that you review or rethink the issue of the exclusion of psychiatric diagnosis in respect of the assessment of the injured person.

Second, we have a concern that a relatively large group of individuals who do not have the resources to pursue legal action, who do not have the capacity to enlist the services of a lawyer to pursue action before the courts, will not be recognized. At the Medico-Legal Society, I recall very strongly one member once putting forward the position that the great burden of the old tort system was that commonly a lawyer was required to give the individual the advice that whatever benefit might arise from the action, it would not be sufficient to cover the costs of that action, and he would therefore advise the individual not to pursue that particular matter. That situation appears to exist under the current writing of Bill 164. It is obvious that, in relative terms, the psychiatrically disabled population might well be much less able to afford the costs of initiating such an action and so not receive benefits in the context of injury in motor vehicle accidents.

It also overlooks the reality of discrete psychiatric diagnosis. That is, I presume and we presume that the exclusion of psychiatric illness from consideration under the act has to do with the difficulty in validly and reliably forming a psychiatric diagnosis. Recognizing that, we still think there are a number of syndromes, such as the post-traumatic stress disorder or major depression, that can be defined with appropriate validity, both in terms of common clinical criteria, and that these do represent illnesses that are appropriately compensable under any system of compensation for injury.

Indeed, the Workers' Compensation Board, as you know, has set up a task force that is examining the whole assessment of stress and stress-related illness because it does recognize that psychological and social stress is an important origin of illness and of disability. I don't see why we can't take that same initiative and apply it in the context of the assessment of the patient injured in a motor vehicle accident.

In summary, I think we applaud the introduction of the opportunity to recover damages through action before the courts as it is contained in this act, but we do have these

two concerns: the potential split, again, between physical and psychological medicine, and second, that large group of patients who may well not have the resources to pursue a private action to recover damages.

1510

The Acting Chair (Mr George Dadamo): Thank you very much. We'd like to start off this round of questioning with the Liberal Party. According to the clock, we have about six and a half minutes per party; we'll start with Mr Phillips.

Mr Phillips: I look at this in a slightly broader context perhaps; that is, that we in Ontario are faced with an enormous fiscal challenge. I know this isn't exactly your field, but I think it is relevant here. The bill, as we see it, is going to put a fairly substantial burden on the people of Ontario in terms of extra costs.

The reason I raise this is that I think there's a completely changed feeling in the Ontario public now that they are really up against it financially; they just are struggling. What I find with the government is that it has two messages. One is that this is a period of restraint and therefore we can't afford to give the hospitals any increase. Hospitals will get 0% increase this year, 0% next year. You see that in your hospital field, I'm sure. There's a one-time-only grant that's clawed back next year. Zero grant, nothing, they live with the same dollars, which means, with inflation, lower levels of service. I understand why the government says that. They feel they're up against it, and they can't afford the \$140 million that would be required to provide the hospitals what was promised them, a 2% increase.

But we see here a plan that, even using the government's figures, is going to cost the people of Ontario a minimum—minimum—\$170 million a year. If you believe, as Mr Swart believes, that the cost is going to be substantially higher, it's going to cost the taxpayers of Ontario, the public of Ontario, perhaps \$600 million.

So we have this strange set of priorities. We can't afford to fund the health care system, as had been promised by the government, but we can afford to tell the taxpayers of Ontario, "You're going to have to fork out another minimum \$160 million, perhaps up to \$500 million, for increased premiums."

Do you have any sense of the priorities of that? As I say, you are commenting on the auto bill but you have the perspective also of the health care field. Where should the government be putting its priorities? Is this the place to spend three times as much money as it would have cost to fund the hospitals as they had promised?

Dr Hector: That's a very interesting question. After my years with the Wellesley Hospital, particularly as chief of the department of psychiatry there, I'm moved to say that clearly the priority must be hospital support and hospital resources.

The problem is that I've been a consultant practising in psychiatry for a long time, and because of my position with the Medico-Legal Society, obviously I have had an interest in the injured person and in medical-legal issues concerning the relationship between physicians and solicitors and so on. In all of that, I've become keenly aware of

the issue of illness and of disability following injury, and very much aware of the sustained burden, symptom impairment and impaired function because of that. So I'm moved to respond with the affirmative in the second case. The problem is that there really is an end to our public resource. Someone has to draw a line.

I suppose I can only speak from the interest of what I necessarily must view as my primary objective, and that is my patient. Certainly, I want to see the psychiatrically disabled person advantaged as much as the physically disabled person. I wouldn't like to say one is more important than the other, but I would like to see them share in the benefits of this particular plan or any similar plan.

Mr Phillips: The reason I raise this is that this is the choice, in many respects, because if you are a driver in Ontario, you have to purchase this level of insurance. It isn't as if, if they don't want it, they don't have to do it. Everybody out there, all those people who are at home watching this right now, have to be aware that the government is sending out one message with the money that it has to have the authority to directly tax and spend—there isn't any—but then it's saying to the people of Ontario, "We're sorry, but we're going to pass a bill that is going to at least \$160 million take out of the people of Ontario." As I say, if you take the figures that the government itself uses, and it's about the only one who agrees with those numbers, it's at least \$160 million, more than the hospitals have been promised this year and will not get.

I'm just saying to people like yourself—you're in a unique position—for the hard-pressed people of Ontario, I think the government has to get its act together and cannot be saying two messages. We're quite prepared to take the price of your insurance. By the way, when we talk about this, there's the normal increase that has to take place. This is just the extra increase over and above the normal premiums that would take place. I realize you're in a bit of difficult spot because you can't be saying, "Well, it should be one or the other."

I want to share with you the dilemma that at least we in the opposition find ourselves in. There's no magical pot of money out there. People don't have all sorts of money to throw around. The government's choosing, right at this time, to take a minimum of \$160 million, and up to \$500 million, out of the pockets of the people of Ontario. If it's \$500 million, that's like raising the retail sales tax from 8% to almost 9%; that's what we're talking about. That's the amount of money we're taking out with this bill. I think all the people who are watching this, and people like yourself who are influential, have to realize it.

The Chair: Could you wrap up there?

Mr Phillips: The challenge for our witness is that I think he's in a difficult spot to try to pick and choose. I wanted to share with him the challenge we're facing.

The Chair: I didn't hear a question there.

Mr Phillips: I think he answered the question.

Mr Tilson: Dr Hector, thank you for your thoughts. You mentioned the Workers' Compensation Board. If I understand correctly what you're saying, you know what compensation people received pre-OMPP. We now are

moving into certainly an interesting no-fault type of—I was going to say "adventure," but it's far from that; it's a tragedy.

You did mention the Workers' Compensation Board. I don't know how much experience you've had with that. The consultant that the government appears to be relying on for all of this, which recently just surfaced, certainly after the bill came into being, was, as you know, William M. Mercer Ltd, also known as the Mercer report. Mercer puts out a bulletin called the Mercer Bulletin. An interesting bulletin came out in December 1992 by William M. Mercer Ltd. I guess it gets into the whole issue that Bill 164 may create another Workers' Compensation Board and the problems that resulted from it.

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This bulletin concludes that a similar expansion of the benefits for Workers' Compensation Board is to blame for a deficit of about \$11 billion, and the liabilities are understated, according to Mercer, by as much as 30% to 50%. Mercer suggests benefit reductions such as a freeze on indexing—that could save \$1 billion—reducing the level of wage compensation, tightening the conditions for entitlement, and says, "The expansion of benefits in the 1980s has caused serious financial deterioration of the programs of Ontario." I'm going to read one other paragraph and then ask for your comment:

"For workers' compensation programs there's a lack of direct fiscal responsibility by governments. There was no lack of political input during the 1980s in the liberalization of benefits. Now governments seem much less inclined to take corrective action when the changes legislated in the past simply do not work in the intended manner and create instead serious financial problems."

It is interesting, of course, watching what Mercer is saying about the WCB and then the company has the gall to come to this government and this committee and simply say that a similar expansion of benefits would increase costs by only 4.4%. Of course, the question is, how can Mercer conclude one thing for the Workers' Compensation Board and the complete opposite on Bill 164?

My question to you, Dr Hector, is that knowing what your patients or people you've assisted prior to OMPP received, and what they appear to be going to receive or not receive under this particular piece of legislation, what are your real fears?

Dr Hector: Certainly, as I take a look at my own notes and the triangle I've created to describe it, the large portion of the triangle that we're suggesting benefits be provided for under the act would be very costly.

Mr Tilson: Probably couldn't be done.

Dr Hector: I have no idea whether it could be done, but it would mean, certainly, considerable costs and I suppose necessarily considerable reduction in the overall mean benefits, however they might be provided. We're keenly aware of the issue of cost and yet of course we're speaking of a population that we do think are genuine, are disabled in a real medical sense and who are as entitled to recognition for that as any other group of individuals might be.

But the Workers' Compensation Board has become—again, I'm aware that the introduction of stress-related illness and some consideration of benefits for those purposes significantly increases costs, potentially greatly increases costs, particularly during times of social stress, economic recession and so on, all of those issues. Every time we turn around we have seen larger and larger dollars being spoken about in terms of the costs of these programs.

Mr Tilson: One other area which really hasn't come forward to the committee—and I don't know whether you're in a position to comment on it—is that with this Bill 164, the pressures are going to be put on OHIP, and there is the fear that OHIP as an institution might completely erode as a result of the unbelievable burden it will bear as the result of the requirements of the benefits of Bill 164. Have you analysed that issue at all and are you able to inform the committee of any thoughts on that area?

Dr Hector: There's no doubt that in the common convention of practice, where you're seeing a person for purposes of maintaining a medical record for purposes of ensuring continuance of disability income from whatever source, government or private or whatever, you do see your patient both more regularly and probably more frequently, because of the necessity of maintaining that record and of completing and submitting the appropriate forms. So I have no doubt that that patient population would be relatively more frequently medically serviced than the population at large.

Mr Tilson: Would it be—

The Chair: I'm sorry; I've got to go on to Mr Johnson.

Mr Johnson: Thank you, Dr Hector, for your presentation today. I've got to say I'm somewhat perplexed by your comments. You indicated that you thought the changes in Bill 164, the proposal, made it somewhat fairer than what the OMPP was with regard to some of the problems you mentioned. I just want to comment that the accident benefits schedule fully recognizes—and I repeat, fully recognizes—mental and psychological injuries just as for physical injuries. As well, the discrimination present in the OMPP threshold has been removed. I was just wondering if you could elaborate on what exactly your concerns are with regard to that.

Dr Hector: I hope I have not read and misunderstood the act in terms of our reading of it, but as I have read it, the issue of compensable benefit has to do with very strictly defined physical illness and that issues of pain and suffering and psychological injury have been assigned the other route of action before the court. Is that not correct?

Mr Johnson: I think it's just clear that they're both fully recognized and that they're both compensable. I think that has to be stated. I think yesterday the member for Wilson Heights stated it so clearly when he said that we could have absolutely the best—this is taken out of context but this is what he meant, I'm sure, given that—

Mr Mancini: How do you know if he took it out of context?

Interjection: That's what he really meant.

Mr Mancini: That's NDP policy.

Mr Johnson: I can't quote what Mr Kwinter said. He did indicate that if we wanted to pay as much as we could conceivably pay, we could have without a doubt the best insurance system, in Ontario. What we in fact have is a cost-benefit relationship, and I think what we're trying to do with this bill is maximize the return for the cost of the product.

My colleagues on the other side would suggest, in fact they have suggested that the OMPP is fine as it is with regard to the concerns you've raised. I want to know if you could suggest, by comparison, that in fact there are improvements for your clients with regard to the changes in Bill 164.

Dr Hector: As I said in my introduction, I do think Bill 164 is a very substantial improvement in respect to the psychologically injured person.

Mr Johnson: Okay. Thank you very much.

The Chair: No more questions. Doctor, I would like to thank you for coming before this committee today.

Dr Hector: Thank you very much for your attention.

The Chair: Could Rob, the researcher here, make a report.

Mr Nishman: My name's Rob Nishman, from the legislative research service. Between sessions this morning, I attempted to find out more about a fourth report on the cost of Bill 164. I phoned Stan Griffin, vice-president of the Ontario division of the Insurance Bureau of Canada. He was aware of a Mercer study, a Wyatt study and a Coopers and Lybrand study, but he was not aware of a fourth study on this particular topic.

I also phoned Rob Pegoraro, the senior policy analyst with the automobile insurance review of the Ministry of Financial Institutions. He basically gave me the same answer as Mr Griffin. I also phoned State Farm and I was referred to a person named Sharon. She mentioned that there was no fourth report that she was aware of. She wouldn't give me her last name and she hung up on me, so if anyone has any extra information—

Mr Mancini: How would you know that piece of information?

The Chair: I guess Mr Ward was asking for it.

Mr Ward: I'm curious. The Conservative Party made reference to a fourth report. Perhaps they could advise this committee of where and what it is.

Mr Phillips: It was probably a summary of the other three.

Mr Harnick: I think it's probably by inadvertence that a fourth report was referred to. There are so many and they're coming so fast and furiously. I think probably you're concerned about the fourth report because that's the level of paranoia that's set in.

Mr Ward: No. I just make reference to it.

The Chair: That's your opinion. Okay.

Mr Phillips: The case is closed.

Mr Ward: There is no fourth report.

Mr Phillips: Exactly.

The Chair: There is no fourth one.

Interjections.

The Chair: It might have been Mr Phillips's fourth one.

1530

REINSURANCE RESEARCH COUNCIL

The Chair: We'll carry on with the next group, the Reinsurance Research Council. Would you come forward, please? I'd like to welcome you to the standing committee on finance and economic affairs. We have half an hour for the presentation. In that half-hour, as you can see at the very end, all the members are very eager to ask questions on your brief. So if you don't mind identifying yourselves for the purposes of Hansard, you may begin.

Mr Angus H. Ross: Angus Ross, president of the Reinsurance Research Council. Thank you for the opportunity to address the standing committee on finance and economic affairs. We are speaking on behalf of the Reinsurance Research Council, an organization representing the majority of professional property and casualty reinsurers registered in Canada, and writing over \$1 billion in Canadian reinsurance premium each year.

Reinsurers are very much a part of the Canadian insurance industry, and to the extent that we share in the premiums and exposures of Ontario automobile insurance, we also share the concerns expressed by insurance companies and industry organizations such as the Insurance Bureau of Canada.

However, the greatest contribution of reinsurers to Ontario automobile insurance is not sharing at all, but rather assuming the financial responsibility for the largest losses, the shock losses and the catastrophic losses that rise above the normal day-to-day loss experience of insurers. The accident benefits proposed by Bill 164 will have a profound effect on these larger automobile losses, and for that reason we wish to address concerns unique to, or with a disproportionate impact on, reinsurers.

Excess-of-loss reinsurance is widespread. Most, if not all, automobile business written in Ontario is protected by excess reinsurance which does not reflect the experience of the primary insurance company. Rather, the excess-of-loss reinsurer assumes only liability for the amount by which large losses exceed an agreed insurer retention. To put this in a Canadian perspective, the majority of Canadian insurers tend to retain something like the first \$500,000 to \$2 million of larger losses depending on their financial strength. The bulk of Ontario automobile business is reinsured above a retention of about \$1 million.

Reinsurers play an important role in the protection of Ontario residents and businesses. Excess reinsurance provides capacity and spread of experience. It allows smaller, niche insurers to compete for business and to offer other important lines of personal and commercial insurance to Ontario residents and business people. Most important, it extends the "spread of risk" function of insurance by assuming the infrequent but large shock losses and spreading their cost among all insurers. Even the largest Canadian insurers seek excess protection from very large claims or from a frequency of large losses. In turn, reinsurance is a competitive business and reinsurance capacity

comes not only from Canada, but from many other parts of the world as well.

Under OMPP, and to a much greater extent under the accident benefit proposals of Bill 164, excess-of-loss reinsurers find it increasingly difficult to measure their exposures and their costs. Reinsurers face unique concerns resulting from the extended periods of care, rehabilitation and disability income that are likely to stretch 20, 40 or even 60 or more years into the future. For your information, we attach a copy of an article on workers' compensation claims in the United States which highlights the long-term problems faced by reinsurers of coverages such as proposed under Bill 164.

We are obliged to raise the concerns of reinsurers with you. The cost of reinsurance claims experience must ultimately be passed back to the insurer, and thus to the insured. If reinsurers cannot measure their costs or cannot satisfy themselves that these costs are controllable, they will charge considerably more money for the unknown, try to direct the more intangible exposures back to the insurer, or withdraw from the market and allow other less knowledgeable and less stable reinsurers to take their place.

Here it is important to note that excess-of-loss automobile insurance is not written in isolation. This same reinsurance community protects home owners' property and liability, commercial property and other commercial exposures such as products liability, machinery breakdown and business interruption. If Ontario automobile insurance disrupts the Canadian reinsurance market, then it may also disrupt that market's capacity to support other lines of personal and commercial insurance.

The chief concerns of reinsurers relate to those proposals contained in Bill 164 as they will affect losses of the 1990s that will remain active throughout the first half of the 21st century and beyond. These concerns can be summarized as the absence of cost controls, the unchecked influence of inflation and the exposure to changing social expectations and political expedients.

Looking at these in order, control of costs: We are pleased to note that a task force is being set up to review cost containment and we view this as a very positive move. Nevertheless, we have specific concerns over the absence of controls and the blurring of benefits as claims of the 1990s continue into the coming decades.

The absence of specific controls over the degree and duration of care, medical and rehabilitation procedures may make Ontario automobile insurance prohibitively expensive. We are told that controls, such as those applied to the Quebec automobile plan, will be put in place as experience dictates. This philosophy may be acceptable for the vast majority of claims that can be resolved in a matter of months. Problems or abuses can be corrected and premiums adjusted within a relatively harmless period of time. But for larger losses, any shortcomings in the new auto insurance plan will have to be borne by reinsurers for decades.

Normally, reinsurers set a price for a full year's exposure in respect of accidents occurring during that year. They then have no opportunity to review, reprice or terminate that business until the end of the year. Therefore, claims developments 20 or 40 years down the road must be paid

by reinsurers without the possibility of correction or future repricing. Nor can reinsurers roll the problems of one year into the pricing of the next, as several years will have passed before the impact of broadly defined benefits becomes clear.

Therefore, we ask that you urgently address the need for clearly defined standards of medical and rehabilitation care and duration, such as those applied in the province of Quebec.

We ask that the proposed benefits address and clearly define "medical" and "rehabilitation" so that 10 years down the road we do not find unlimited rehabilitation expenses spilling over to replace or supplement limited care expenses.

We ask that the intent of certain benefits be set out in such a way as to preclude reinterpretation of coverage some time in the future. For example, as the population ages, there will be very thin lines between accident-related degeneration and the natural onset of age-related disabilities. Without clear definitions, we fear that the auto policy will be called on to act as a long-term care provider for age-related, not accident-related, infirmity.

We ask that greater control be placed on the open-ended opportunity of accident victims to review earning capacity. For example, will some future changes in the economy prompt hundreds of claimants to reopen their benefits?

Any system with benefits as generous as those proposed for Ontario will become a target for fraud. Of particular concern would be expenses incurred by injured parties after their return to their own country, where medical certificates can easily be bought or forged and where follow-ups are expensive. It is noted that under the definition of "accidents" in Quebec there is a limitation that it applies solely to persons legally in Canada. We ask that this apply to all accidents in Canada.

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Indexation: You have indicated an indexation factor for certain quantified benefits such as income replacement and long-term care. We have a minor concern regarding the linkage to CPI. If accident benefits are to be tied to CPI, there must be the possibility for deflation as well as inflation. The alternative can create a situation where the increase in benefits substantially outstrips the CPI. An example of this is attached to our brief. At the very least, should deflation occur and then be followed by inflation, the indexed benefit should only rise when the CPI-adjusted benefit exceeds the benefit currently available.

Our major concern involves the true inflation of certain costs at a rate unrelated to the CPI and well above the real rate of return available to reinsurers on any investment instruments. We have grave misgivings on the ability to predict this inflation over long periods of time, particularly when it is limited to a few specific components. Examples of these are medical and drug costs—with the unknown of Bill C-91—rehabilitation and renovation, and advances in prosthetic devices and treatment.

Without some form of limitation or cap, this inflation must be viewed as an open-ended exposure of unlimited potential. Such an exposure cannot be priced. We ask that a finite amount, which can be indexed at CPI, be attached

to the headings of medical and rehabilitation expenses as has already been done for long-term care, where the government acknowledged the unacceptable economic impact of unlimited costs.

Legislative: We have concerns at the prospect of limits and benefits being handled by regulation and not by legislation. If there is no retroactivity or change on existing claims envisioned in Bill 164, our concerns would be lessened, but we nevertheless are disturbed by the possibility of short-term political imperatives creating economically unsound conditions for reinsurers of Ontario automobile reinsurance. We simply cannot price against the possibility of claims from the 1990s being increased by regulation some time in the 21st century.

We also wish to express concern at the impact of possible future changes to OHIP on the cost of medical and rehabilitation claims. As OHIP seeks to reduce costs, we fear that many of them will fall under automobile policies. This cannot be envisioned in reinsurers' current rates, nor is there any opportunity for retroactive rating adjustments should this occur. In order to provide for rate stability, there must be some form of guarantee of continuing OHIP participation at existing levels.

Conclusion: We appreciate that it is your intention to develop an Ontario automobile insurance plan that is both comprehensive and affordable. However, in your deliberations, we urge you to address the long-term implications of each accident benefit. Our concerns are the absence of cost controls, unchecked inflation, and exposure to changing social factors and political imperatives. Without these being addressed, we may end up with a plan that is comprehensive but unaffordable by private insurers, by government, and most importantly, by the insuring public.

Mr Tilson: You've alarmed me even more after your presentation, specifically with the issue of cost. We have heard evidence in this committee as to what the immediate cost would be. Some of those facts are some distance apart, but the fact is that rates are going to go up immediately.

I think the facts you are now putting to us are saying there's going to be inflation and perhaps when the regulations are better understood—you've used the words "changing social expectations" and "political expedience"—rates will increase even more beyond that.

The minister has said many times in the House, and as recently as yesterday, that rates are not going to go up, that they are just simply not going to go up, and that the insurance companies are making lots of money. There was a press story this morning, of course, that said much the same thing, and he's given the people of this province a guarantee that rates are not going to go up.

We hear all these facts coming forward that say that, with the issue of costs, with the issue of benefits, the uncertainty of things, costs are going to go up. If costs are going to go up, someone's got to pay for it.

I guess we're getting to the real question. I've indicated in this committee that my observation is that he has two choices: He can put a puppet or puppets on the insurance commission who will simply say, "That's it," or he can do this provision that's in the bill, that by cabinet decree will say rates will not go up. I don't know. Maybe you can shed

some light as to your theories on that, but that's what he's going to do.

Having listened to what you've said, and when we've heard what the minister has said, as described in the press this morning and since this whole issue has developed, that rates are not going to go up, what's going to happen? What's going to happen to the insurance industry? Are we being led down the path, that really Mr Swart is going to get his way and there is going to be public auto insurance in this province? Do you foresee that that's the plan of this group of people?

Mr David Wilmot: David Wilmot, chairman of the technical underwriting committee of the Reinsurance Research Council. I have to repeat something that was said at the beginning of this presentation: that we are, as excess loss reinsurers, concerned with only the largest losses; in fact, it is often determined that we will assume liability just above the normal loss expectation that the companies have had to date. So if you see something like a bit of inflation or further development in losses and how losses are settled, then that could shoot up into our area of responsibility.

After all, if we're in excess of \$1 million, and you have a \$1.1-million claim that inflates by another 10%, that is not a 10% inflation to us; that is, I believe, about 110% inflation for our involvement. That is the nature of excess reinsurance, to sit above what has happened in the past. I've done one study of my own, but I'd rather defer to the IAO study, which seems to be in the same line as our figures. For a layer in excess of that \$1 million, we're looking at an increase of maybe 1000%.

Mr Tilson: The question is, what's going to happen to reinsurance companies?

Mr Wilmot: Reinsurers will do their own numbers and decide whether or not they can afford to continue in the Canadian market. Some will decide not to. Others, using those same numbers, will put their price forward. I would have to say that if the cost of reinsurance goes up by 1000%, we only have a small share of the premium initially, but that becomes a significant amount. That would have to flow back through the cost of insurance to individual insureds.

Mr Tilson: Notwithstanding the proposed amendment of the NDP, Mr Charlton isn't going to let you out. He won't let you stop.

Mr Wilmot: There is indeed a question whether the reinsurers are intended to be included within that fold.

Mr Tilson: I wish you luck.

One more question: the issue of OHIP. There has been some expression, and I'd like to get some thought from you as well; I've been asking this of a number of delegations. You indicate, on page 6 of your brief, that you wish some form of guarantee continuing OHIP participation at existing levels. If OHIP is being obliged to pay for more and more of these benefits that may or may not be expanded, then the question is, of course, the survival of OHIP, and that issue has been raised. Having heard that, what are your thoughts?

1550

Mr Ross: The question really boils down to whose pocket the money comes from. Whether it comes from OHIP or whether it comes from insurance companies, it comes out of the same pocket: It comes out of the public pocket. If both sides are sharing in the costs of medical and rehabilitation and the share of one party goes down, then it's a simple economic fact that the share of the other party has to go up. If the costs overall go up, then either one or both of the parties have to increase their costs. We cannot get away from that.

It boils down to the fact that the public will either pay through the increased costs which come back, once the employer health tax works its way through the system to go to the consumer, or they pay in their automobile insurance premiums. Somewhere it has to be balanced, otherwise you have a deficit on the public side with OHIP, which is not acceptable under current government desires, or on the private side under the insurance companies, which is also not acceptable, because we are not charitable organizations.

The Chair: I'm going to go on to Mr Klopp.

Mr Klopp: Thank you very much for bringing your brief here today. It's something we are always concerned about too. You mentioned OHIP and the balance, and I think that is important. That's something that we as a government are coming to grips with, and indeed I think you tie in with this, and our committee needs to hear this.

There has been a problem with caps under the present OMPP system for accident victims. We've seen that. People have told us. That's one of the reasons we've looked at a bill such as 164.

You've mentioned the task force. We appreciate that you feel it is a good sign that this government does want to get serious about what we can find. That's why we set up this task force, because we believe we can get guidelines that strike that balance. I just want to have your comments on anything regarding that, on these benefits and where the task force should be going.

Mr Wilmot: I think you want reasonable settlement for injured parties. If they're reasonable, if they are measured in today's standards and those standards, although indexed, flow into the future unchanged, then this is a priceable product: We can come up with a price and deal with it at face value. If we don't know what the rules are down the road, if we can have a claim next year but then have the rules change on us in the year 2005 for the subsequent 30 years of somebody's life, we can't price that. Our solution to being unable to price that is to charge an extra loading, if you will, for the risk of the unknown. If you can clarify these matters, then we do not have to charge the additional loading needed for the unknown.

We're very aware of what's happened with workers' compensation in the United States. The awards that some of these people are receiving now are very fair. They're very out of line with the numbers that were contemplated in the 1930s and the 1940s, but that is fine as long as the standards and measurements can be guaranteed into the future.

For example, you use the expression "reasonable" medical cost, "reasonable" rehabilitation. Can you define the public's view of what is reasonable in the year 2015, the year 2040? We don't know what those are, but we do know that if you had internal caps that were themselves indexed, then it would be pitched so that it would deal fairly with people in 1993 and, theoretically, if indexed, should deal fairly with them in the year 2020.

Mr Klopp: That's why the minister asked all the major players to sit on this task force. I'm sure you will be giving your input in that. I certainly want that to happen. You and I may get hit by a car tomorrow; under the present plan, I would not want to get into an accident tomorrow and be caught with a \$25,000 cap or whatever. I think we can resolve those issues, because any one of us might get into an accident tomorrow.

The Chair: Mr Mancini.

Mr Mancini: I have to say that your presentation to this committee has probably been the most frightening in that it clearly shows the potential for the entire system to break down. We know how upset consumers were in the late 1980s when large numbers of consumers were put in the Facility Association, some unfairly, and premiums, the rates they had to pay, went through the roof. I'm afraid, based on the information you've provided to the committee, that you foresee some type of extraordinary event, whether it's economic or political, which might put all of us in something like the Facility Association. Am I reading too much into what you've told us, or should I be as worried as I think I am?

Mr Wilmot: I'd like to answer that. The pricing and the structure, as it's been discussed up to this point, deals with the 93% of accident victims who can resolve their injuries and difficulties in a short period of time. Again, we're only looking at a very thin slice, where we are dramatically impacted by the changes proposed.

The role of excess reinsurance, of course—the spreading of risk, allowing smaller companies to compete with the large companies, or to provide protection in a niche market—we think is very important. If the reinsurers found it uneconomic to provide those layers of coverage or they had to provide something quite different—for example, they all had to move up to, say, excess of \$2 million—this would hurt the competitiveness of some of the smaller companies. The opportunity to control costs on the efficiencies of some of the smaller niche insurers would disappear because of the lack of reinsurance. The large companies I'm sure would find a way to continue and insurance would remain available.

Mr Mancini: Are you familiar with the 68 pages of draft regulations that accompany Bill 164?

Mr Wilmot: Yes.

Mr Mancini: Does it remind you of the Workers' Compensation Board system of settlement?

Mr Wilmot: Very much so.

Mr Mancini: The government's own actuaries, the Mercer group, came to this committee only a day or two ago to defend their report and defend their assessment that

rates would only go up 4.5%, meaning that just under \$200 million being taken out of the pocketbooks of Ontario residents because of Bill 164. At the same time, the same consultants and experts giving the government advice on everything to do with automobile insurance were sending out a bulletin dated December 1992 in which they're railing against the government about the lack of cost control at the Workers' Compensation Board and they make some recommendations such as perhaps freezing the indexing of benefits for a few years to save \$1 billion etc. Do you find that somewhat surprising?

Mr Wilmot: I'm not familiar with the Workers' Compensation Bulletin you have in your hands, but I do have a great deal of difficulty with the suggested percentage increase of—

Mr Mancini: So you don't buy Mercer's 4.5% increase?

Mr Wilmot: I'm afraid I do not.

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Mrs Caplan: Could I have one question? Earlier this morning, we heard from some people who were looking at the impact of the removal of the ability to sue for economic loss. From your experience, I'd like to know whether you agree with them that the effect of this bill, by removing the ability of those most vulnerable to sue for economic loss, the removal of that component and allowing in its place a greater number to sue for pain and suffering with a threshold, that the impact of that really shifts from support for the lowest income and most in need to those who perhaps are higher income. In your experience as reinsurers, is that something you've had any contact with evaluating?

Mr Ross: The impact on reinsurers of that change is not particularly great. Our main concern in this bill, as we have addressed in our brief, are the unquantifiable costs and future costs of medical rehabilitation and the other areas where there is no monetary limit and where the inflationary aspects are not tied to CPI but are free to run wild.

Mrs Caplan: So it's that uncertainty.

Mr Ross: It is the uncertainty within those areas. As far as the economic loss goes, although we don't know how much it is going to be, it is a quantifiable amount. Under tort, when you've paid the claim, you've paid the claim; if circumstances change for the better or the worse, that's it, it's paid. Under the medical and rehabilitation, you've paid the claim, and you pay the claim and you pay the claim and you just keep on paying for 50 or 60 years.

Mrs Caplan: Could I have one small question, Mr Chairman? No?

The Chair: Gentlemen, I'd like to thank you for appearing before this committee. I know the conversation has just got going well. Mrs Caplan, they'll be out in the hall for a few minutes if there's something you'd like to talk to them about. I'd like to thank you for appearing before this committee.

Mr Tilson: Mr Chairman, I'd like to speak to you with respect to a point of order. We have had, on a number of occasions, as recently as Mr Klopp's comments—and the parliamentary assistant, of course, has referred to this

task force. The government has made great boasts that this is something the government is going to get into to review this whole subject.

The whole thought occurs to me, and it arose while I was listening to Mr Klopp ask questions of this delegation: Is this committee premature in its deliberations, in its investigations, when we're going to have a government task force review, presumably, many of the matters coming forward to this committee? If I am correct, it would seem to me to be more appropriate that these proceedings should be delayed until after the task force has submitted its report.

The Chair: I might have the parliamentary assistant respond to that.

Mr Owens: Just to respond to Mr Tilson, it is Bill 164, the piece of legislation before this committee, and not the regulation. The accident benefits will be set out under the regulation, and standards of care that will be developed as a result of this task force will be set out in the regulation.

Mr Tilson: The regulations are part of the bill, and we have every right to deal with that. If the task force is going to be dealing with those regulations—

Mr Owens: It's not part of the bill, sir.

Mr Tilson: The regulations are part of the bill. Every bill has regulations, and we have every right to know what those regulations are. Some of those regulations have come to us; presumably there are going to be more. Mr Mancini and I have been spending a great deal of time showing how incomprehensible they are to understand, and you have the gall to say they're not part of the bill. If they're part of the bill—and they are part of the bill—and you in turn are having a task force to study those regulations, then the proceedings of this committee are premature. There's no reason we should be wasting the taxpayers' money to proceed with all of this matter when the government is going ahead on a task force that's going to be duplicating all the work we're doing.

The Chair: Can I go on to Mr Mancini? You had a point of order?

Mr Mancini: Well, I want to speak to Mr Tilson's point—

The Chair: Or just a clarification.

Mr Mancini: No, there's no clarification needed. Mr Tilson has raised a point of order, and I want to speak to Mr Tilson's point of order because I find what he says to make good sense. We have for the last number of days been hearing testimony in regard to Bill 164. Bill 164 is accompanied by 68 pages of unintelligible, unreadable regulations.

The Chair: That's a difference of opinion. I'm sorry.

Mr Mancini: No, I haven't finished my point yet. We have heard from the government members that there are going to be some type of government hearings in regard to some of these regulations or other regulations after 164 is passed. That is doing the government's business in reverse. It is important, Mr Chair—

The Chair: I'm not going to make a judgement, Mr Mancini, but usually some task forces are ongoing; they're

always looking at better ways to do things. I'm not familiar in that particular area—

Mr Tilson: The picture that has been painted by the parliamentary assistant and other members of this committee is a new venture. It was only put forward—

The Chair: I'm sorry, but we've got another group coming on and I would like to get them on. Maybe some of these things can be addressed tomorrow.

Mr Tilson: Mr Chairman, if you're going to go away and reserve on the comment, that's fine, but I'm simply saying that these hearings are very expensive to the taxpayer, very expensive to the people who are appearing before us. Yet the government is boasting of this wonderful task force it has just called. I will say to you that it's duplication. It's a high sign of a bureaucratic plan that this government—

The Chair: I think a lot of it isn't a point of order but a difference of opinion.

Ms Haeck: On a point of order, Mr Chair: I would just like to get on with the agenda. We do have other deputants here.

Mr Mancini: The government members never care about process or policy or rules or anything. All they want to do is shove whatever they table down everybody's throat. That's the point we've reached.

The Chair: I'm sorry. The next group is here and they're ready to go. I think they've been waiting for over an hour to come before this committee.

ONTARIO CHIROPRACTIC ASSOCIATION

The Chair: Would the Ontario Chiropractic Association come forward. I'd like to welcome you to the standing committee on Bill 164. I see most of you aren't strangers here. I'd like to note that my friend from Fonthill, Dr Lloyd Taylor, is here also. We have a half-hour; in that half-hour, can you make your presentation and leave some time at the end for questions? As you can see, the members of the committee are sitting on the edge of their chairs just waiting to ask questions. You may begin, but first, please identify yourselves for the purposes of Hansard.

Dr Robert Haig: My name is Bob Haig; I'm a board member and a past president of the Ontario Chiropractic Association. Dr Lloyd Taylor is our representative to Queen's Park; Dr Kopansky-Giles is a member of our board and practises in a multi-disciplinary setting; Mr David Chapman-Smith is our general counsel, and Mr Peter Waite is the association's executive director.

The Ontario Chiropractic Association represents members who see the auto insurance system from two different perspectives. First of all, they are drivers seeking insurance with reasonable benefits and costs and, second, they are health care providers who see the practicalities of the system on a day-to-day basis.

The present automobile system in Ontario has major problems, both in principle and in practice. This association supports the proposed reform in Bill 164 and the draft statutory accidents benefit schedule as producing a fairer and comprehensive system of compensation. Appropriate balances have been drawn between compensation and cost and between the rights of insurers and those insured.

With respect to some general principles, the association particularly supports a uniform and fairer rating system for drivers; the emphasis on safety and prevention through a new road safety agency; appropriate recognition of the importance of and compensation for non-economic loss; the amendment to the threshold for resort to the courts found in the current OMPP; the continuation of the existing private insurance industry.

I am at this point reading from the executive summary, which is the second page in. The rest of the executive summary is dealt with in more detail in the main body of the brief. I'm going to skip to the third page in, which is part A, the introduction.

The Ontario Chiropractic Association has about 1,400 members. There are over 1,500 chiropractors licensed to practise in Ontario, and approximately 50,000 in North America.

There is legislation recognizing and regulating the practice of chiropractic in every province in Canada. The profession plays a major role in the treatment of accident victims, because its scope of practice focuses on soft-tissue injuries, including joint and muscle disorders in the neck, low back and extremities.

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For many reasons, there has been dramatic new acceptance and growth of the chiropractic profession, both internationally and here in Ontario, during the last 10 years. In Ontario, for example:

(a) A 1990 survey from the faculty of medicine at the University of Toronto reported that a majority of medical family doctors in Ontario, 63%, now refer patients to chiropractors; in fact, one in 10 doctors are themselves chiropractic patients.

(b) WCB records show that over the last few years, the number of injured workers with back sprain/strain types of injuries that choose or are referred to a chiropractor has risen from 33% up to 50%.

(c) Under the new Regulated Health Professions Act, 1991, and the Chiropractic Act, 1991, chiropractors are one of the five health care professions recognized as having the ability, right and duty to perform a diagnosis and use the title "doctor." Those five professions—chiropractic, dentistry, medicine, optometry and psychology—are therefore the ones authorized to provide certificates under Bill 164.

The new spirit of cooperation between chiropractors, medical doctors and other health professionals, which is greatly in the interest of the patients and which also promotes an efficient auto accident benefits program, will be enhanced by the new legislation.

In the brief time the association has today, we wish to focus on the scheme for the provision of supplementary and medical rehabilitation benefits found in the schedule. This is the area where the association and its members have expertise and can provide the most informed comment on the improvements found in the legislation.

First of all, with respect to disability certificates: For over 50 years in Ontario, the workers' compensation law has allowed patients to choose chiropractic or medical care and have all of their claim and disability certificates signed by their chosen practitioner. However, when chiropractic

services were brought under the standard auto policy in 1979, the right to certify disability for disability payment benefit purposes was still restricted to medical doctors. That situation provided unbelievable conflict and unbelievable difficulty for many accident victims who chose to attend a chiropractor, who elected chiropractic care.

The OCA placed many graphic examples of these difficulties before the Osborne inquiry into motor vehicle accident compensation, and that inquiry expressly ruled, in its 1988 report, that in order to avoid unacceptable delay, expense and patient inconvenience, chiropractors should be able to provide disability certificates for their patients. The relevant parts of that report are attached as appendix A.

The previous reform of the auto insurance law failed to adopt the Osborne inquiry's recommendations, and there are major problems that still continue. I am going to give you two specific examples here. I'm on page 2; this is point 3(a).

In June 1992, Miss C. of Waterloo had an auto accident and chose chiropractic care, but was told by her insurer that she had to have her medical authorization completed by a family physician. The OCA discussed it with Alpina, failed to get it to take a reasonable approach and resolved the issue only through the insistence of the Ontario Insurance Commission. This patient was put under great stress and difficulty at a time when she was in great pain from an auto accident injury. Alpina's response was conditioned by the confusing legal picture for the insurance industry. The law says a chiropractor can treat and certify what amounts to reasonable and necessary treatment, but a certificate as to the cause and nature of the injury and disability can only be given by a medical doctor. It's an incredibly confusing situation.

The second example is that of Mr P. of Kitchener, who had an injury just in September 1992. He elected chiropractic care and did very well, but the adjuster in the company in this case challenged his right to see a chiropractor and pressured him to be examined in a medical doctor's office in order to have payment for his chiropractic expenses.

I'm going to ask you to turn for a minute to appendix C, which is the documentation relative to that. Appendix C-1 is the letter the association received from its member. This is a member writing to the association and saying, "This patient is undergoing blatant harassment, and is there anything that you can do about it?"

The second letter, which is C-2, is the letter the patient received from the insurer and you can scan the underlined parts there, "We were informed...you simply went to this chiropractor on the suggestion of a fellow employee." Well, that's not inherently a bad thing. It is demanding that he be assessed by his family physician in order that the payment be made. The lack of clarity in the legislation allowed this insurer to use it inappropriately to restrict this patient's ability to access chiropractic services.

Section 44 of the proposed standard accidents benefit schedule will finally resolve this long-standing problem for patients, not just of chiropractors but of dentists, optometrists and psychologists. The top of page 3 is the provisions of

subsection 44(1), and you can see clearly that the certification of disability is permitted by all of those five professions which, under the Regulated Health Professions Act, have the right and duty to diagnose.

Secondly, with respect to rehabilitation benefits: Section 33 of the schedule—now, this brief says it's attached as Appendix D; I apologize that it is not. I assume you all will have it, but if you don't, we have copies. This section comprises an important reform with a major new emphasis on rehabilitation. It's worthwhile if we can pause for a minute to summarize the clinical and scientific background to this reform.

One factor that has led to the greater use of chiropractic and multidisciplinary services in soft tissue injuries to the spine, the kinds of injuries which are most common in whiplash and other automobile accidents, is a radical change in the understanding and management of these kinds of injuries.

Health professionals and researchers acknowledge that it is currently impossible to provide a precise diagnosis of the source of pain in most neck and back soft tissue injuries. They also agree that the traditional approach to management, passive care consisting of medication, immobilization, bed rest, physical therapy modalities—it's acknowledged that this passive care approach is inappropriate, that it promotes deconditioning, psychological overlay and disability.

These kinds of injuries require early active care: physical treatment such as mobilization and manipulation to restore muscle and joint function combined with the earliest possible return to activities of daily living and entry into rehab programs involving education, counselling, exercise and work hardening in order to empower the patient.

With neck pain, no standard medical treatment—immobilization, use of a collar, injections, medications—none of these has scientific evidence of effectiveness. The only treatment approach with acceptable scientific support is manual treatment aimed at muscle and joint function: mobilization, manipulation, trigger point therapy.

With back pain, the treatment approach with the most scientific evidence of effectiveness is joint manipulation as used in chiropractic practice. It's important to understand that with both neck and back soft tissue injuries, early aggressive intervention, the type of intervention that's traditional in sports medicine and in chiropractic practices, is the key. This must include exercise, patient education and responsibility, counselling and work simulation.

Very often there needs to be multidisciplinary assessment and management at the outset. Currently, patients will frequently go from a trial of this therapy to a trial of that therapy to a trial of this therapy, without an overall management of their problem and it may take many months before they get appropriate treatment.

Section 33, which provides a legislative basis for early effective rehab programs, is an important reform. Clause 33(3)(c) contemplates professional case management and we can predict with some confidence that it will result in reduced levels of chronic injury and disability.

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Section III on page 4 addresses the appropriate controls and balances that are in place here. I'm going to leave that

part for now. If there are specific questions on that, we'll be happy to go to it. But I want to deal with the one minor recommendation for amendment we have on page 5, and that's with respect to attendant care benefits.

As previously mentioned, five primary independent health care professions—chiropractic, dentistry, medicine, optometry and psychology—are recognized by the Regulated Health Professions Act as having the right and duty to perform and communicate a diagnosis. An important practical principle found in Bill 164 and in the schedule is that an insured who elects to see any of these professionals may receive any certificate he or she may require from them. Of course, this is appropriately, and as recommended by the Osborne inquiry, subject to the insurer's right to obtain a second opinion from another health professional.

Section 34 deals with attendant care benefits. This relates to the costs or losses of those assisting a disabled person, and there are two categories of this. There's the cost of qualified attendants and/or long-term care facilities, and there is the cost of lay persons, such as a spouse, who lose income because of the need to care for the insured. The former is not really relevant to chiropractic practice, but the latter is.

As drafted, all attendant care benefits require a certificate from the insured's physician or psychologist. Chiropractors should be able to certify for lay persons. Point 10 on page 5 is our recommendation that a new subsection 34(6) should be inserted, reading:

"In respect of benefits under subsection (4) a certificate required under subsection (5) may be from a chiropractor if the injury is one that a chiropractor is qualified to treat."

That wording is consistent with the provisions for other certificates.

For consistency and in principle, such an amendment should also apply for dentists and optometrists, but this association is unsure of whether or not that is a practical problem for them and whether that needs to take place.

That concludes the remarks we wish to make to the committee and we're happy to answer any questions you might have.

The Chair: Okay. We have five minutes per caucus, and we will start off with Mr Owens.

Mr Owens: Thank you for your presentation this afternoon. We appreciate your suggested amendment and we will certainly take that into consideration.

I'd like to read a quote from yesterday's Hansard by the member for Windsor and Essex that talks about the Liberal legislation. He says, "This Liberal legislation is fair and has stood the test of time." I'd like to ask your association how it views the current legislation, and in terms of how the current legislation doesn't take care of those who are psychologically injured and doesn't recognize the—

Mr Tilson: Mr Chair, on a point of order: The legislation this committee is reviewing is not the OMPP or Bill 68; the issue before us is Bill 164. I think it's a completely irrelevant—

The Chair: He's wasting his time asking that particular question then. Let him—

Interjections.

Mr Tilson: Is it a valid issue or not? It has nothing to do with Bill 164.

The Chair: Sometimes it happens it comes the same way.

Mr Tilson: I'm asking the Chair to rule that out of order and let's proceed on another question.

The Chair: He's taking up his five minutes.

Mr Owens: And you're taking up my time.

Mr Tilson: He can ask anything under the sun. Is that what your position is?

The Chair: Correct. Go ahead, Mr Owens.

Mr Owens: Just to complete my question, again, how does your association view the current legislation and its impact on your patients?

Mr David Chapman-Smith: I've had quite a lot to do with the current legislation and was involved during the last legislative round. There was, I think, an honest attempt then made to improve the situation and there was something done as to certificates, but basically the problem wasn't solved because it wasn't dealt with comprehensively.

To move on to the element of your question which deals with psychological problems, a point made in the current presentation quite strongly is that a lot of this develops from an inappropriate treatment regime where, instead of things being dealt with in a timely fashion and in an interdisciplinary manner, under a system which really doesn't foster interdisciplinary cooperation you get disability and you get a delay in recovery, which leads to psychological overlay and psychological problems. A system which facilitates all the relevant services getting to an accident victim straight away and dealing with something in a timely fashion and empowering him to act certainly will have an impact on that.

Mr Owens: So again, moving from the political to the practical, your association would view Bill 164 and its implementation as being helpful from a practical perspective in terms of getting an accident victim back on his or her feet and back into the workplace.

Mr Chapman-Smith: I think that's so and we've given some evidence of the patient difficulties today, but the real body of evidence, including signed statements on the issue, was given to the Osborne inquiry some years ago, which went in some depth into the fact that this is a major problem for patients. So it's good to see that cleaned up.

The Chair: Any other time over here? Anybody have other questions?

Mr Owens: We'll hold our minute.

The Chair: Mr Mancini.

Mr Mancini: I'd like to ask the solicitor a question. Do you agree that people should have the right to sue for economic loss?

Mr Chapman-Smith: The right to sue for economic loss?

Mr Mancini: Yes.

Mr Chapman-Smith: As a solicitor, I'd like for them to have the right to sue for most things.

The Chair: There's your answer.

Mr Mancini: I appreciate that, but I want to be clear on the record and I would like a clear answer. We heard testimony this morning from the Fair Action Insurance Reform Committee, FAIR, and when they reaffirmed some of the things we had heard as to what effects losing the right to sue for economic loss has on families, I don't think it's very funny. My question to you is, do you think people should have the right to sue for economic loss?

Mr Chapman-Smith: Well, I'm going to be obliged to pass on that because I'm here representing the association.

Mr Mancini: You're here speaking to Bill 164?

Mr Chapman-Smith: Yes.

Mr Mancini: Bill 164 takes away the right to sue for economic loss, and I ask you again, do you believe that people should lose the right to sue for economic loss?

Mr Chapman-Smith: I've got a personal view on that, but I don't feel at liberty to express that here.

The Chair: I think maybe that's an inappropriate question to this particular group. In other words, they're here—

Mr Mancini: Are you kidding?

Mr Tilson: Some questions are appropriate and some questions are inappropriate.

The Chair: Criticize the parliamentary assistant for the kind of question—we left it right open.

Interjections.

Mr Mancini: Are you serious, Ronnie?

The Chair: They most likely haven't taken a stand on that.

Mr Mancini: They're here making a presentation on Bill 164. Bill 164 takes away the right to sue for economic loss. What's the association's view?

Dr Haig: We have strong views on the part of this legislation that we understand the best. If this legislation is going to result in a system that fairly compensates people, then it's a good idea.

Mr Mancini: With all due respect—

Dr Haig: The part of it that we know the most about is the rehabilitative and the medical expenses part.

Mr Mancini: With all due respect, all groups that have come before us have spoken to the bill in its entirety and have tried to answer questions on the entire scope that the bill is dealing with. I understand where you're coming from and why you zeroed in on the area you did. However, you did say at the beginning of your statement, "The Ontario Chiropractic Association represents 1,400 members who see the automobile insurance system from two perspectives—they are drivers seeking insurance with reasonable benefits and cost." "Benefits and cost" were your own words. Your members are losing the benefits that they would have been able to undertake under the existing legislation that's being changed, and you have no comment to make on that. It's very surprising.

The other point I want to make is as follows. You are now limited by the Ontario government, present and past,

as to how much you could—there's a cap on your billings; let me put it briefly. Is that correct?

Dr Haig: Yes, that's right.

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Mr Mancini: What is the cap?

Dr Haig: There is a cap per patient through OHIP.

Mr Mancini: What is the cap per patient through OHIP?

Dr Haig: Right now it's \$220.

Mr Mancini: It's \$220. Over and above \$220 the patient has to pay. Is that correct?

Dr Haig: It's more complicated than that, but yes.

Mr Mancini: If the patient is not insured, if the patient has not been referred to you by any other agency, if the patient walks in off the street—I come to your office tomorrow, I have a bad back, I can't claim it against anyone, I want to see you for six months and after my \$220 is expired, I've got to reach into my pocketbook and pay you, correct?

Dr Haig: Essentially, yes.

Mr Mancini: Thank you. Now, this legislation, by the government's own admission, is going to raise the cost to Ontario drivers by just under \$200 million.

Mr Owens: That's not an admission.

Mr Mancini: It's the Mercer admission.

The Chair: I'm sorry that he interfered in your question.

Mr Mancini: Is he saying that Mercer is off?

The Chair: Don't listen, Mr Mancini. Just carry on with the question over there.

Mr Harnick: Nobody listens to him anyway, Remo.

Mr Mancini: I just want to make sure that our guests here have the facts. Mercer, hired by the government, said in these committee hearings in front of the committee that rates will go up 4.5% across the province. You factor that out; that's almost \$200 million.

Last year, or this year, as my colleague has been saying, hospitals in this province will not get \$200 million. Don't you think it's a little bit ironic that we don't have money to give to chiropractors who would give me and millions of other people services that we might need without having to reach into our own pockets, but are willing to change the automobile insurance system where we as a group have to pay a minimum of \$200 million more and the possibility of paying up to \$565 million more? Doesn't that concern you?

Dr Haig: We know that there have been a variety of estimates as to the cost.

Mr Mancini: Let's use the government's estimates.

The Chair: Mr Mancini, can you let him answer, because we're ready to go on to the next one as soon as he gives the answer.

Ms Haeck: Just be nice to my constituent.

Dr Haig: This is fine. Mr Mancini, I really wish that I could give you an answer that would keep you happy.

Mr Mancini: You don't have to keep me happy. Keep the viewing public happy that has to pay all this money. Not all of them are NDP ministers, you know.

Mr Phillips: Through regressive tax.

Dr Haig: I can assure you that this association has things to say about the financing of the health care system as a separate issue. Of course there's concern relative to the costs to the system of anything. I simply go back to the point that our members deal with a lot of individual people on a day-to-day basis who have individual problems. We're quite convinced that the parts of this legislation we've addressed are going to be of major benefit to them.

Mr Mancini: It's obvious you don't want to answer any questions other than when they pertain to your own industry.

The Chair: Mr Harnick, go ahead.

Mr Harnick: Is this five minutes?

The Chair: Yes.

Mr Harnick: Sir, just to help you out with what Mr Mancini was asking you, let's assume that you as a chiropractor were involved in a car accident yourself. You make a certain amount of income, and under Bill 164 you're going to get compensation for a portion of your income. But let's assume that you're going to lose something beyond what the accident benefits are going to pay you. Do you think that, if you're the innocent victim of the accident, it's right for you to have your right to sue for that differential taken away?

Mrs Caplan: Especially if you can never work again.

Mr Harnick: What I'm saying is that the benefits pay you a certain amount of money, your income was really more and Bill 164 says you can't claim for that differential. Really, I think what Mr Mancini was asking you was, do you think it's right to have your economic rights taken away from you if you are the innocent victim?

Mrs Caplan: And you could never work again.

Dr Haig: I do understand what you're saying.

Mr Harnick: I don't want to pressure you to hurry up but my time is fleeing.

The Chair: Put the question a little bit differently, Mr Harnick.

Dr Haig: We'll eat up your five minutes here.

Mr Harnick: And you don't know how much that upsets me.

Mrs Caplan: I think it's fair to point out that deputants are permitted to take a couple of minutes and think about the answer.

Dr Haig: I'm not really trying to eat up your five minutes, but—

Mr Harnick: No, I know, because I have a better question for you next. I was just trying to bail you out.

Dr Haig: With respect to chiropractors, the reality is that all chiropractors have disability insurance as well.

Mr Harnick: Let me jump in here. Disability insurance is your first insurer. Auto insurance tops you up. There's still a differential at the end of the day, and all I'm saying

is, do you think it's right to lose the opportunity to sue for that differential as an individual?

Dr Haig: The association hasn't for sure arrived at a conclusion to that.

Mr Harnick: Okay, that's fine.

Dr Haig: That's the reality of it.

Mr Harnick: I was just pursuing Mr Mancini's line, but the question I really wanted to ask you deals with neck injuries. From my experience of seeing numerous individuals who have been involved in car accidents, I have learned over the last many years that neck injuries can be very serious injuries and can have a very devastating effect on an individual and that injuries to the neck, and perhaps to the low back often don't get better or they last for several years and gradually people learn to live with the pain.

Under this bill, people will be permitted to sue for pain and suffering but there's a \$15,000 deductible. My experience says if you've had an injury or you've had a neck pain for three or four years, you finally learn to live with the pain and carry on and do most of the daily things you want to do even though you still have some residual pain.

Your claim might be worth \$15,000 to \$20,000. Under Bill 164 there's a \$15,000 deductible, which essentially, for a person who has had an injury for three or four years and still has some residual pain, renders the claim absolutely valueless, because the deductible is set at a high level.

The deputy minister yesterday said—

The Chair: I'm sorry, Mr Harnick. Can you get to the question, because your time has run out.

Mr Harnick: I'm getting to the question.

The Chair: Yes, but we're not going to have a history story.

Mr Harnick: The deputy minister yesterday said he wanted to eliminate small claims. Unfortunately, in my eyes anyway, a person who's had pain and suffering for three or four years and his claim is worth \$15,000 and has it eliminated by a deductible of \$15,000 is eliminating more than a small claim. What I want you to do for my friends across the way is explain to them, if you can and if you agree with my proposition, what pain and suffering a person goes through when he or she has a soft-tissue injury: whether those injuries are real and whether they're significant.

Dr Haig: How long do we have here?

Mr Harnick: Take all the time you need, because it's a very serious matter when people are going to lose their right to claim.

Dr Deborah Kopansky-Giles: I can maybe help answer that question. As I understand it, what you're asking is to clarify that soft-tissue injuries, first of all, can be significantly disabling injuries, and yes, in fact they can be very disabling. Even though we don't have our concrete signs and symptoms, like a fracture on an X-ray or a dislocation, soft-tissue injuries can be very disabling in many ways.

The way we've looked at it, and as we commented in our brief here, is that we are confident that the new bill will help improve the patient's access to rehabilitation and expedite recovery so that many patients who do have relatively

minor soft-tissue injuries may not have the pain and suffering for three years, which would take care of those patients and those \$15,000 claims that won't receive anything because of the deductible. We won't run into that longevity of symptoms. People who go beyond that usually settle for a significantly larger claim, so maybe their considerations would be addressed.

1640

The Chair: Mr Owens, one minute. That's all you've got left. You didn't use it all up at the beginning.

Mr Owens: I just ask you to quickly comment on your views of our proposal with respect to immediate rehabilitation benefits after a one-week waiting period, indexed income levels, versus the potential of no benefits and no rehabilitation under the tort system.

Mr Chapman-Smith: I think it's partially covered in our brief. Whether you're talking about an auto accident system or workers' compensation or general treatment, as was mentioned in the submission, there has been a major understanding which is reflected in the science and in practice worldwide in recent years that in traditional practice, with the sort of injuries you get, certainly in whiplash and soft-tissue spinal strain injuries, the chief evil has been that it has actually created disability. You can describe that by saying for every day you lie in bed, there is definitive demineralization of bone, weakening of muscles etc, and at a physical and psychological level, you deteriorate rapidly from day one.

Therefore, the major new emphasis is to early multidisciplinary management, and luckily there are a lot of external things which are making that feasible in the 1990s. What that means in the current context is a system that encourages and allows someone to get into early multidisciplinary management with the best rehab services available. Dr Kopansky-Giles and her partner run a major clinic in Toronto which has psychologists, physiotherapists and all of these people who should be brought in at week one rather than one at a time over a period of 18 months.

The Chair: I'd like to thank you and your association for appearing before this committee. Thank you.

INSURANCE BROKERS ASSOCIATION OF ONTARIO

The Chair: The next group is the Insurance Brokers Association of Ontario. I'd like to explain to the committee that they were scheduled for Tuesday. Our meeting for the presenters was cancelled on Tuesday; they were rescheduled and they were able to make it today to present because of another cancellation. I'd like to thank you, gentlemen, that you've been able to make it here tonight. I know we're 10 minutes behind.

Welcome. If you don't mind introducing yourselves for the purposes of Hansard and the audience here in Ontario so they know who you are, you may proceed. We have one half-hour and please leave some time at the end. As you can see, the question part seems to be a very important part of this consultation.

Mr Bob Carter: Thank you. My name is Bob Carter. I'm the executive director of the Insurance Brokers Association of Ontario.

Mr Frank Sytsma: I'm Frank Sytsma, president of the Insurance Brokers Association of Ontario.

Mr Bob Stuart: I'm Bob Stuart, president-elect of the Insurance Brokers Association of Ontario.

Mr Bob Carter: What we'd like to do is briefly tell you a little bit about ourselves, where we come from, our association and what our interests are in your hearings.

Briefly, the role of the independent insurance broker in Ontario and the role of our association: Insurance brokers act on behalf of their clients, the insurance consumers of Ontario. Brokers purchase insurance protection for their clients from various insurance companies. Here we're pointing out the distinction between an insurance agent and an insurance broker: Insurance agents act for one company; we act for several.

The Insurance Brokers Association of Ontario: More than 12,000 active individual insurance brokers currently distribute property and casualty insurance products in the large and small communities of Ontario. The Insurance Brokers Association of Ontario represents over 7,400 insurance brokers employed in approximately 1,300 offices contributing to the province's economy. In that number, we're only dealing with the licensed personnel. We also have secretaries, accountants and people like that in those offices.

Our members, as small independent business people, are the first to hear from consumers when an insurance product is not working. Therefore, we look at the design and content of an insurance product primarily in relation to its impact on the insurance consumers. Whether an automobile product is no-fault, tort or a combination of the two does not really concern us, unless the consumer will be adversely affected. We are therefore here today to express our views on how Bill 164 will affect our clients: the insurance consumer.

Since the introduction of the Ontario motorist protection plan, consumer complaints in connection with both claims and premiums have dropped dramatically. We agree that improvements are needed and we note that Bill 164 takes some positive steps towards further protecting and enhancing the interests of our clients. However, in the areas where we believe the consumer will be adversely affected, we will suggest some viable alternatives.

We strongly believe that Bill 164 should be considered in the broader context of the initiatives proposed in *The Road Ahead: Ontario's Strategy for Automobile Insurance Reform*. The *Road Ahead* document placed significant emphasis on the need for safer roads as a key to containing both monetary and social costs.

As we all know, affordability is an important concern for Ontario consumers. The cost of the auto insurance product is based, for the most part, on the cost of claims. The cost of claims in turn is driven by the level of benefits the policy provides and the frequency and severity of accidents. The implementation of a graduated licensing

scheme is one lifesaving measure that could contribute to road safety and help control insurance costs.

One of the goals of the road safety agency created by Bill 39 is to influence public opinion to convince motorists that it is no longer socially acceptable to drive in a dangerous manner. We believe that a road safety agency could be a very successful instrument of social policy. After all, this approach has already proven successful in changing attitudes on drinking and driving, a campaign in which the Insurance Brokers Association of Ontario played an active role.

It appears to us that the road safety corporation has been delayed. We have provided a list of volunteers from our membership to serve on both the board and the five subcommittees. To date, it is our understanding that only two of the committees are active and the board has not been struck. This is a source of serious concern to us.

As we mentioned, the price of the automobile insurance product is important to the consumer. While we are not able to evaluate Bill 164's proposed changes in specific actuarial terms, we do have serious concerns about the affordability of this new product.

When improvements are made to benefits, the average cost per claim rises. Bill 164 also raises the possibility of increased adjustment costs because a higher percentage of accidents involving bodily injury will be investigated now that there will be increased access to the courts. We further believe that the potential exists for increased costs as wording changes are tested in the courts.

One must never lose sight of the fact that the cost of insurance is directly related to the cost of claims, and any improvement in benefits must be weighed very carefully against these increased costs. We sincerely believe that the Ontario consumer will protest strongly if the proposed reforms lead to anything more than modest premium increases. We must be wary of consumer backlash directed at both the insurance industry and the government.

As affordability is a major concern, so too is the question of availability. Since the mid-1980s, the automobile insurance market has been under political scrutiny. It has been the subject of many inquiries, legislation and change. If market forces are not allowed to operate and if competition is not fostered, then the consumer will suffer. The current legislative climate has resulted in the withdrawal from the Ontario market of one major automobile insurer, the cancellation of significant expansion plans of another insurer and uncertainty for the rest.

We agree that there must be regulations in place to protect the interests of the consumer. Market forces and good business practices and principles must be also be permitted and encouraged.

I'll skip over the next part. What we deal with there really is that on the original withdrawal provisions we were very concerned. You've addressed them to a certain extent and we hope that will minimize the impact on market disruption.

We have serious concern that Bill 164 gives excessive powers to the cabinet. The insurance industry is a multi-billion-dollar business and employs thousands of hardworking Ontario residents. While no one questions the

rights of the elected representatives to govern and to regulate, we are concerned that by moving this power from the Ontario Insurance Commission to cabinet, auto insurance will become more of a political issue as opposed to a business issue.

Auto insurance is a highly technical product that should be kept out of the political arena. Technical expertise exists at the Ontario Insurance Commission, and we believe that the consumer's needs are best served by regulation, on a consultative basis, by the OIC.

There are proposed changes to the classification system, and we believe that the implementation of a uniform rating system will limit competition among the insurance companies. The insurers use the rating grid to implement a series of highly specialized discounts. These discounts benefit a variety of consumers. A number of them are especially beneficial to Ontario's seniors, and we comment on that throughout our presentation.

The situation on tort: Bill 164 restores the right to sue for pain and suffering, subject to the \$15,000 deductible, or \$5,000 under the Family Law Reform Act. We believe there should be adequate compensation for pain and suffering. We also believe that Ontario's consumers would be disadvantaged if they had the right to sue completely removed. However, we must not lose sight of the fact that generous increases in no-fault accident benefits under the original OMPP were introduced as a measure to control claims costs by reducing access to courts and still providing compensation to all accident victims, regardless of fault. Bill 164 further enhances these no-fault benefits.

1650

Earlier, we expressed our concern on the issue of affordability. Anything that affects claims costs ultimately affects insurance premiums. We believe that the \$15,000—\$5,000 under the Family Law Reform Act—threshold, while increasing consumer access to the courts, will not necessarily increase claims payments to the consumers. It will, however, increase claims costs and ultimately premiums, as insurers will once again have to fully investigate all claims in order to prove fault or protect their position; I think that's a key element in that low threshold. We cannot emphasize too strongly that Ontario's consumers will not accept anything more than a very modest premium adjustment.

The statutory accident benefits are another issue. Our comments are based on a thorough review of the draft regulations dated March 1992, but a more limited review of the revised regulations released January 18, 1993, due to obvious time constraints. When we originally reviewed the March 1992 regulations, we had some concerns regarding "the activities of daily living," and under the January 1993 revised draft regulations, many of these have been addressed. It is our feeling, however, that some of the definitions may be too vague and, once again, may require legal interpretation. Under the section headed "insured person," our original concerns regarding non-dependent family members have been addressed in the revisions.

We feel that the inclusion of temporary supplemental benefits to protect those who are legitimately trying to get back into the workforce, but are temporarily unable to do

so or do so at reduced earnings, is a very positive step towards assisting the rehabilitation of those who have been injured.

On income replacement, part II, we notice there's been a change in the qualifications applying to a person claiming weekly benefits under which the existing subparagraph (ii), "on temporary layoff" has been replaced by subparagraph 6(1)4i, reading, "to be recalled" to an employment "pursuant to a collective agreement." It would appear that this may be too limiting in that not all layoffs apply only to those under collective agreements. We recommend that the proposed new clause be extended to include the previously mentioned wording.

We believe that unemployment insurance benefits should be included in calculating the amount of benefits, thereby treating, from an income point of view, employed and unemployed persons equally. Under section 8, we remain confused as to the methodology proposed on when unemployment insurance is included or excluded and its impact on benefits payable to consumers.

While we appreciate the need to be fair with respect to the benefits, we are concerned that in current economic conditions a benefit could be calculated based partly on employment which may have ceased three years prior to the accident. This section appears to ignore the reality that the province's economy has changed to the point that some positions have disappeared with no likelihood of reappearing in the future. One solution might be to use the Ontario average industrial wage, as referred to within the regulations.

Many Ontario workers who have been displaced under the current worldwide economic restructuring have unfortunately been faced with reduced incomes compared to one, two or three years previous. We do not believe the silent majority of automobile insurance consumers in Ontario should have to pay for income benefits which exceed current and future income expectations and realities.

Part III: The introduction of yearly benefits for loss of an academic year is, in our opinion, quite worthwhile. We have a concern, however, that if the accident were to occur in the final year of a student's education, the need to stay in school for an additional year, with the resulting lack of income, could well be worth more than \$8,000. Perhaps a more equitable solution in this situation would be replacing the benefit of \$8,000 with payment for actual tuition costs plus the benefits set out in subsection 14(4).

With respect to the benefit payable to care givers, we feel that going back three years within the employment history again does not reflect today's conditions.

We refer to previously stated concerns that interpretations of "activities of daily living" may result in insureds and insurers being unable to reach consensus, especially with respect to part II, clauses (b), (c) and (d).

Other disability benefits: This section is a catch-all to pick up those who do not fit in any of the previous categories. We are not bothered or troubled by the concept; however, we feel it important to point out that many of those who would be covered under this section are retired persons. It should be noted that for those persons who are retired, the limit on benefits is \$185 per week, not indexed.

There is currently no provision within the rating structure of the accident benefits section to reflect this obvious limitation of benefit. It seems inequitable that seniors are required to pay premiums based on a limit of \$1,000 per week but are themselves limited to receiving only \$185 per week. We suggest that this be addressed in the rating of the section and that a discount be allowed to reflect the reduced exposure under clause (b) benefits for those persons who are retired.

With respect to loss-of-earning-capacity benefits, we agree with the provision that insurers must make a formal offer to pay benefits after 104 weeks of disability.

In connection with the assessment provisions, care will need to be taken that the assessment facility has local representation from the area where the claimant resides.

There is a further potential problem with factors involving wages for those who have been receiving an education benefit. We suggest that this section be reviewed to take into account students who may have been involved in a recognized apprenticeship program. Students in their final year of apprenticeship could reasonably expect to reach the full wage rate applied to their trades significantly before the age of 30. We recommend that in such cases they receive full benefits from the date they would have completed the apprenticeship.

The conditions regarding mandatory review of benefits and deterioration in condition are positive and give both parties an opportunity to adjust to changing circumstances.

Supplementary medical benefits and rehabilitation benefits: We're pleased to note that the caps on these important coverages have been removed. It is our feeling that those who have been seriously injured in an automobile accident should not have to be concerned about the possibility of their benefit running out while they still need either medical or rehabilitation benefits.

On part IX, attendant care benefits, we're concerned that the \$3,000 monthly limit may not be adequate for those who have been seriously injured. The establishment, however, of the minister's task force on rehabilitation and long-term care benefits is a positive initiative to clarify benefits for the protection of the consumer.

We are in agreement with the increase in death benefits and revised definition of spouse.

We are concerned that the maximum amount stated under funeral benefits is actually a reduction in amount for most insured persons. The current policy permits an increase from the \$3,000 base to \$7,500 for funeral benefits, and most policies written through the 1,300 independent broker offices we represent automatically reflect this higher limit. We recommend that this increased amount be carried forward under the new proposal to avoid coverage reductions.

Other pecuniary loss: Changes here reflect today's society by permitting visitation expenses for a person who was living with the insured, in addition to the traditional family members.

The extension for dependent care to wage earners and the increase for non-wage-earners further reflect the reality of today's society.

Payment for housekeeping and home maintenance expense reflects a realistic approach to actual loss by the

insured person. Damage to personal items further reflects actual loss, which is not recoverable under the current plan.

Under exclusions, clause 2 recognizes that some consumers have been unaware of licence suspensions due to unpaid fines and therefore, under the previous plan, have been operating their automobiles without insurance protection. This has been one of the major problems with OMPP since its inception. We cannot understand, however, why this improvement has been made only to the statutory accident benefits and not to Bill 164 so that it can apply to all coverages. We believe this change should be made so that the many motorists who are unaware of suspensions for unpaid fines will continue to receive the full benefit of their policy. What we've found is that, if you haven't paid a ticket or something, the notice does not get to the consumer for a number of months and he or she is technically unlicensed. We believe, under the "procedure" section, that this is a solid attempt to clarify the rights and responsibilities of the insured and the insurer.

1700

We believe the responsibility to participate in rehabilitation is a positive initiative and will encourage participation.

We believe that social assistance payments should be treated as income in the calculation of benefits to avoid excess benefit payments.

Removing the onus to provide a certificate, unless waived by the insurer, will allow insurers to show compassion for seriously injured persons. The tying of psychologists, dentists and chiropractors to their specialized areas removes potential areas of misunderstanding.

Under the reduction or stoppage of benefits: This addition clearly establishes the condition under which insured persons must be notified. It establishes the mechanism to reinstate the benefits.

With respect to repayment to insurers: The amendments in this section clarify responsibility for repayment and set out fair treatment of the consumer in establishing repayment terms.

The inclusion of "wilful misrepresentation" again clarifies the intent and limits the rights of those who should not have received a benefit.

We are concerned that the minimum benefits are not indexed. This section, especially for seniors, should be indexed.

In conclusion, Bill 164, when considered in the context of The Road Ahead initiatives, contains some very positive changes for our clients, Ontario's automobile insurance consumers.

We believe that Bill 39 must be implemented along with Bill 164 in order to bring in graduated licensing and other initiatives from The Road Ahead which offer concrete and proven methods of containing insurance costs which ultimately control insurance premiums.

May we suggest that another area that is not adequately addressed in OMPP, and subsequently in Bill 164, is arbitration to settle disputes for direct property damage or collision total loss. These amendments should be made to this bill.

In part VI, loss of earning capacity benefits, reference is made to apprenticeship. We believe that apprenticeship should include other professional training programs which,

when completed in the business world, result in increased income, as happens in the trades.

We have attempted to assist you by outlining our concerns in connection with affordability, availability, the classification system, tort and statutory accident benefits. Our volunteer group has put many hours into this review.

The complexity of the statutory accident benefits schedule leaves us with concerns over future interpretation, implementation and costs to the Ontario motorist. We recognize that improvements we have suggested in this presentation may have to be tempered due to cost factors. We reiterate that the Ontario insurance consumer is not prepared to accept substantial increases in automobile premiums.

We commend you for your revisions in the regulations that were published on January 18, but as previously noted, it's been extremely difficult to conduct the same in-depth review that we had completed on the original draft regulations.

We, the Insurance Brokers Association of Ontario, remain committed to serving the Ontario insurance consumer and to working with your ministry in simplifying, streamlining and controlling the costs of automobile insurance.

Thank you very much.

The Chair: We haven't got too much time, but one question from each caucus. Mr Phillips?

Mr Mancini: Can we have two, since this is the end of the day?

The Chair: It's not Christmas. Mr Phillips.

Mr Phillips: My colleague has a question as well. I'll ask mine quickly.

The Chair: We'll see if we can get around to it.

Mr Phillips: Okay. Our concern is heavily around what this is going to do to the people of Ontario in terms of costs. We've heard estimates of up to \$200 per driver as incremental costs. Even the government says it's going to cost a minimum of about \$190 million extra, almost like a tax, if you will, a regressive tax, because no matter how much money you make, you've got to buy the insurance. So even if you are low income or not working at all, you've got to buy this. You've got to pay the extra premium. You have no choice.

I guess you people are as close to the consumer on this as anybody. If the costs were up to \$200 of premium, and I'm talking about incremental costs, because the regular costs are going to go up—this is just for the extra benefits provided in this bill—if they were \$200 per driver, would your response still be the same? Is this worth \$200 per driver and is it worth, to the people in Ontario, spending more money on this? The government says, "We can't afford to give the hospitals anything but we can afford to tax the taxpayers of this province somewhere near, depending on what estimates you use, either \$190 million or \$500 million." That's the range. Is this package worth \$200 a driver, in your mind?

Mr Stuart: I think our clients are very interested in bottom-line costs. In many cases, the benefits they would like to receive they're not able to afford. We have tried to put this through our submission here that many of the

ideas expressed are worthwhile, but the question is, will the insuring public accept the increase in cost?

Mr Phillips: They have no choice. If it goes through, they've got to. This is zero choice.

The Chair: I'm sorry. Mr Tilson.

Mr Tilson: I've a brief question, as has Mr Harnick. The issue is with respect to the regulations. We've had complaints from almost every group as to the myriad of regulations and how we're going to understand them. There's going to be, in my view, considerable cost in educating the public, in educating brokers, in educating the claims adjusters, in educating, I suppose, everyone, in educating the politicians, because they're going to be coming to our office, just like they do for workers' compensation.

My question to you is, has your group sat down and given any estimate as to what it might cost to spend money to educate the brokers of this province to properly understand how this system's going to work, because it's very, very complicated, even understanding words.

Mr Bob Carter: I'll take that one. I can tell you, based on the hours we've spent going through it, we are still not up to speed, and any change will cost money. We will be able to deal with our members, and we represent about 55% to 60% of the insurance brokers in Ontario. We are unable to deal with non-members, and this type of change takes a long time to go out. I can tell you right now there are people in this province who aren't fully up to speed on Bill 68, the original one. We still run training sessions on them now.

The Chair: Mr Dadamo.

Mr Dadamo: Thank you, Mr Chair.

Interjections.

The Chair: I'm sorry, Mr Dadamo's got the floor.

Mr Tilson: To be fair, Mr Chair, our time has not gone as far as the previous Liberals, and surely we're allowed the same amount of time.

Mr Harnick: Don't we get five minutes for questions? That couldn't have taken more than a minute and a half.

Mr Tilson: I tried to make my question very brief.

The Chair: If you're going to waste time—

Mr Tilson: You're just ignoring us.

Mr Harnick: I thought there was going to be—

The Chair: Five minutes every 15, plus what was it, 25 minutes for the presentation?

Mr Tilson: How are you adding, Mr Chairman? The fact is that our time was not the same as the Liberals, and we're entitled to equal time.

The Chair: I said one question from each caucus. We had time. I know Mr Mancini had his hand up. He had a 10-second question, short, sweet and quick, and I was going to go back to see if we had enough time. But if we argue about it, we're not going to have much time left. Okay, Mr Dadamo.

Mr Dadamo: It's unfortunate that the opposition is never happy.

My geographical friend Mr Mancini claims continually throughout these hearings that OMPP is a great system and

needs absolutely no changes at all. Your organization has criticized the OMPP's exclusion of the head-injured, the psychologically injured, the lack of adequate benefits for students and also the self-employed. You've also been very vocal on the need for indexation. The previous government chose to ignore your concerns. To address the issue of cost, the government has now established a task force on rehabilitation and long-term care. Would you agree with Mr Mancini's assertion that the current OMPP system is a wonderful system and does not need to be changed?

Mr Harnick: Did Mr Endicott write this question? Where is Mr Endicott?

Interjections.

The Chair: Would you let them answer.

Mr Bob Carter: I think in our statement we said very clearly that OMPP was much better than the previous system and there are a number of additions in here that we agree with, if the public can afford them.

The Chair: Mr Mancini, 10-second question, okay?

Mr Mancini: First of all, I want to thank the association for what I consider to be a well-thought-out brief. You've touched on many aspects of the legislation. I can tell you spent a lot of time.

Being front-line workers and preparing other brokers and other people in offices and all these people to give a product to the customer, of course you're going to be the first group to hear as to whether or not people are either happy with the product or can afford the product. You mentioned it in the brief, but could you give me your assessment as to how many complaints per month or per year or however you calculated them you were receiving on the OMPP prior to the introduction of Bill 164, or around the time of the introduction of 164? If you don't have specific numbers, were they a lot or a few?

1710

Mr Stuart: I can comment. In my own office, we have had one problem, which we note has been addressed, and that was in the area of definition of "insured person" where you have someone who is not a dependent but a family member.

The Chair: Okay, Mr Harnick, a quick one.

Mr Harnick: We have heard from a number of groups, very diverse in nature: the ARCH group—the Advocacy Resource Centre for the Handicapped—the Insurance Bureau of Canada, Progressive Casualty, FAIR, the Advocates' Society. One of the things they all note is the fact that you're not able, under Bill 164, to claim your economic loss beyond what the accident benefits might pay you. Each of those groups was very critical of that particular omission.

It has been suggested that the act be amended so people have the option to purchase supplementary or, by way of endorsement, some form of income protection to pay them the difference between what accident benefits pay and what their actual loss might be. As brokers, do you envision anything wrong with selling that kind of a product to ensure that people, at the end of the day, are at least receiving their actual loss of income?

Mr Sytsma: Are you talking as an add-on to the existing policy?

Mr Harnick: Exactly.

Mr Sytsma: The experience of the brokers' association and its members has been, though, that under the current OMPP you had the option to increase your coverage from \$600 to \$1,050 and it wasn't being done.

Mr Harnick: What I'm saying is, if people had the option to protect their income, just as they have the option to purchase underinsured coverage, is that a product you would have a problem selling or would object to selling for any principled reason?

Mr Sytsma: We wouldn't have any objection to selling it, but would they buy it and what price would it be? We get back to cost.

Mr Harnick: Depends how the insurers market it, right?

Mr Ward: Just a quick question, and I guess we're allowed. I understand from your brief and your presentation that generally you feel the expanded benefits we're bringing forth in Bill 164—you generally support them in that they bring in people who perhaps were excluded out of the present OMPP. You're aware also that, as the benefits are expanded, there's a cost to the system. We recognize that as well and we think we've struck a fine balance. We can't satisfy everyone, but we think we've done a good juggling act.

When it comes to cost, there are 150 insurance companies in Ontario—around that number. Our actuary, Mercer associates, which did an actuarial report for the government, estimates the costs of these expanded benefits, which generally you support, will bring a cost to the industry of around 4%. Even that is in a state of flux because of this task force that has been formed that's going to look at long-term care and the costs of that aspect.

Interjections.

Mr Ward: If I may now, Mr Chair.

The Chair: Mr Ward, could you get to the question.

Mr Ward: You've been in the industry a long time. You have a wealth of experience. We're led to believe by the opposition that this cost—it could be around 4%—to the industry is simply going to flow through the insurance companies directly on to the premiums of the driving public. I find that hard to believe.

The Chair: Okay, Mr Ward, get to the question.

Mr Ward: My question is, would it be your experience that this would occur or in fact would the competitive nature of the insurance industry absorb some if not all of that cost?

Mr Bob Carter: From what we are aware at the present time, I do not believe the insurance industry would absorb it, because their claim is—and we're only the sales force—that with the drop in interest rates etc, they're running pretty close to the wire now. So I would think they would be forced to pass it on.

The Chair: Okay, thank you. Thank you, Mr Ward.

Mr Owens: On a point of order, Mr Chair: Maybe we can excuse the guests if they don't want to be delayed by this procedural point.

The Chair: I'd like to thank you. As I said at the very beginning, how flexible you were to come before this committee. Again, thanks for appearing.

Mr Owens, your point of order. Could you speak up a little louder?

Mr Owens: I wish I could grab this microphone and bring it closer.

In the interest of accuracy, I'd like to take the opportunity to correct the record in terms of a response or more appropriately an exchange that took place between Mr Griffin from the Insurance Bureau of Canada and Mr Mancini.

In response to—

Mr Tilson: You can only correct your own record.

Mr Mancini: You can't correct my record. On a point of order, Mr Chairman: Mr Owens has no privilege—

Mr Owens: May I finish my point? I have the floor.

Mr Mancini: You can't correct my record.

The Chair: Wait a minute, let him just finish.

Mr Tilson: I may want to correct your record.

Mr Owens: Mr Mancini indicated that the minister had, in fact, made a response—

Mr Mancini: On a point of order, Mr Chairman. I have a point of order. Mr Owens does not have the privilege to rise on a point of order to correct someone else's record. Mr Owens's point of order is out of order.

The Chair: I agree with you, Mr Mancini.

This committee will be adjourned and will resume hearings at 10 o'clock tomorrow morning and will be running till 10 o'clock tomorrow night in room 151.

The committee adjourned at 1717.

Substitutions present / Membres remplaçants présents:

Dadamo, George (Windsor-Sandwich ND) for Mr Wiseman

Haeck, Christel (St Catharines-Brock ND) for Ms Ward

Harnick, Charles (Willowdale PC) for Mr Sterling

Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Mr Christopherson

Klopp, Paul (Huron ND) for Mr Jamison

Mancini, Remo (Essex South/-Sud L) for Mr Kwinter

Owens, Stephen (Scarborough Centre ND) for Mr Sutherland

Tilson, David (Dufferin-Peel PC) for Mr Carr

Also taking part / Autres participants et participantes:

Bass, Julia, executive coordinator, automobile insurance review, Ministry of Financial Institutions

Owens, Stephen, parliamentary assistant to the Minister of Financial Institutions

Clerk pro tem / Greffier par intérim: Carrozza, Franco

Staff / Personnel:

Chan, Rebecca, assistant to the clerk

McNaught, Andrew, research officer, Legislative Research Service

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ISSN 1180-4386

Legislative Assembly of Ontario

Second Intersession, 35th Parliament

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Official Report of Debates (Hansard)

Thursday 28 January 1993

Journal des débats (Hansard)

Jeudi 28 janvier 1993

Standing committee on finance and economic affairs

Insurance Statute Law
Amendment Act, 1993

Comité permanent des finances et des affaires économiques

Loi de 1993 modifiant les lois
concernant les assurances



Chair: Ron Hansen
Clerk: Tonia Grannum

Président : Ron Hansen
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Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday 28 January 1993

The committee met at 1001 in room 151.

INSURANCE STATUTE LAW AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LES LOIS CONCERNANT LES ASSURANCES

Consideration of Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance matters / Loi modifiant la Loi sur les assurances et certaines autres lois en ce qui concerne l'assurance-automobile et d'autres questions d'assurance.

The Chair (Mr Ron Hansen): Good morning. This is the standing committee on finance and economic affairs. We're in day 3 of Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance matters.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: This morning the first group to come before the committee this morning is the Canadian Federation of Independent Business. I'd like to welcome you. We have half an hour, until 10:30. In that half-hour, could you leave some time at the end of your brief for questions from the three caucuses. If you don't mind, identify yourself for the purposes of Hansard and the people of Ontario. You may begin.

Ms Judith Andrew: Thank you, Mr Hansen. My name is Judith Andrew. I'm director of provincial policy with the Canadian Federation of Independent Business. I'm joined by Jim Bennett, who is our vice-president of legislative affairs at the federation.

We appreciate the opportunity to appear before the committee on behalf of our 40,000 small and medium-sized business members in the province of Ontario. Our members are interested in Bill 164, in auto insurance coverage, as both personal and business consumers of insurance products.

The committee should note that the total number of business enterprises in Ontario, including those of the self-employed, amounts to nearly 650,000 operations, of which 98% have fewer than 50 employees and 95% have fewer than 20 employees. Small business in fact is the predominant form of business enterprise in the province.

CFIB members determine direction for the organization, on the basis of their majority votes, on public policy issues contained in our publication Mandate. The most recent vote we've had dealing with auto insurance came in January 1991, when some 64% of our members opposed the concept of publicly owned and operated car insurance. A prior vote going back to 1986 measured our members' views on no-fault auto insurance. The question posed was,

are you for or against a no-fault system for auto injury compensation? The result was 63% of our members in favour, 23% against, and some 14% undecided.

We have been gauging the calls and letters we've received recently, and I can say that there has been no widespread call from the small business community to modify greatly the Ontario motorist protection plan. There are many other problems facing the small business community, and this is not one we are contacted about often.

Nevertheless, as the government is about to amend the auto insurance legislation, we will comment on Bill 164 in light of our members' goals for auto insurance. Those are: fair and certain levels of compensation for loss of income; fast and efficient payments to accident victims; reasonable legal and administration costs; affordable premiums; and accountability for drivers' actions. I would say that these goals are not too divergent from the government's own goals for auto insurance.

Just dealing with key elements of Bill 164—the new tort restriction, the monetary deductible—we are of course interested in the predictions on this from the actuaries engaged by the government, William Mercer Ltd. We noted that the Mercer study estimates that the combined effect of the change in access to tort for non-economic damages and the elimination of the right to sue for economic damages is estimated to yield a 15% reduction in the cost of awards and settlements under Bill 64 from the levels of the current OMPP. Yet three times as many people will be able to seek redress from the courts; this means they will be able to seek redress for less.

We are also advised by knowledgeable participants in the insurance industry that the prospect of considerably more claims for pain and suffering will mean a significant increase in administration. This is because every accident now will have to be thoroughly investigated and statements will have to be taken from all those involved, in preparation for a potential tort action. Naturally, the three-fold increase in legal suits will also entail a much larger legal expense.

We would also note that there are many unanswered questions concerning how the new rules will play out in court decisions. There is the suggestion that the \$15,000 deductible for pain-and-suffering suits will actually become a new floor for those types of claims. In fact, judges would be forced to award more than \$15,000 if they intended to actually compensate someone for their pain and suffering. It's also possible that judges could attempt to characterize economic loss as non-economic loss in an effort to more fully recompense those people who cannot sue under the system.

In an overall way, we are very concerned about the lack of fairness in barring legal action for pecuniary loss in the most serious of cases while at the same time allowing

many more claimants access to the courts for the less definitive non-economic losses they sustain. Our organization is also concerned about holding administration and legal expenses at reasonable levels, yet Bill 164 threatens to greatly increase those components.

Turning to the structured benefits for economic loss, we note that they are greatly enriched under Bill 164. Our organization has no fundamental objection to periodically reviewing and adjusting the auto insurance benefit structure. In fact, looking at benefit designs can aid in better meeting the needs of insureds within cost limits and impacts which are well understood and affordable.

I would note that there are significant parallels between the auto insurance benefit structure you're examining and that of the Workers' Compensation Board. This should make legislators all the more cautious as you approach the auto insurance benefit schedule in legislation, as the WCB is a prime example of no-fault insurance gone awry.

To digress a moment over the WCB difficulties, legislators will know that the WCB is struggling under an unfunded liability of some \$11 billion currently, despite having the highest assessment rates in the country. Employers are the sole funders of this expensive insurance system that takes in some \$2.5 billion per annum in premiums. There is an expenditure crisis at the WCB, and the combination of generous benefits, poor administration and the recession have resulted in claimants actually gravitating to the WCB and staying on for much longer periods than previously.

The Mercer study commissioned by the government on the auto insurance estimates that the increase in premiums resulting from the changes will be in the order of 13%. At the other end of the estimate spectrum is an increase of some 20% calculated by Wyatt Co for the insurance industry. Our comment would be that the WCB-esque benefit structure and the administration proposed under Bill 164 makes us very pessimistic on the cost projections.

Just as for WCB claimants, the proposed income replacement benefits at 90% of net income are non-taxable in the auto accident victim's hands. The weekly maximum under auto insurance will be \$1,000, which actually exceeds the WCB maximum of \$750. It is relatively simple for actuaries to show that replacing income at this high level on a non-taxable basis results in overcompensation where the claim is of less than one year's duration; in fact, overcompensation worsens at higher levels of income. In the case of WCB, some claimants actually receive between 110% and 130% of their pre-injury earnings. In the WCB context, this has emerged as a rather perverse financial disincentive to rehabilitation and return to productive work and living.

1010

A cursory examination of the rules governing entitlement to benefits under the revised draft regulation just given out recently yields some striking parallels to WCB. Of particular interest is draft regulation section 26(4), which sets out the criteria for judging whether the person has made reasonable efforts to obtain employment. The section clarifies that the employment must be available in the area the insured person lives, the employment must be accessible to the person and it is reasonably possible that

the person could obtain the employment, having regard to his or her personal characteristics. This very same approach at the WCB has resulted in that agency absorbing a share of general unemployment, as suitable work is not available for many Ontarians, whether or not they were injured. As the rehabilitation task contemplated under auto insurance appears to go beyond making the individual job-ready to actually placing him or her in a job, legislators can anticipate that significant excess costs will arise when unemployment rolls are high.

Accordingly, if the Bill 164 benefit proposals and administration proposals remain unchanged, CFIB would anticipate very significant pressure on auto insurance premiums, and this at a time when our small and medium-sized businesses can ill afford anything more than a nominal increase. We would strongly recommend that the income replacement benefit percentage be modified to take account of the tax effects, and you might want to ask your actuaries to actually look at the various levels of income and the effects on the replacement ratio of this particular benefit design. We would also recommend that the rules governing entitlement be revisited to ensure that the loss of earning capacity is clearly linked to the auto injury and not to the general state of the economy.

I'd just like to conclude with a few comments on the coverage gap for smaller businesses. With respect to the OMPP, CFIB was critical of that plan for failing to take account of the special circumstances of small business entrepreneurs.

We do note that the revised draft regulation issued January 1993 contemplates the situation of small business owner-operators. The definition of employment actually includes them. Section 62 of the regulation establishes a method for calculating income from self-employment, and section 63 permits the small business entrepreneur to actually contract in advance with the insurance company for a weekly income amount appropriate to the business situation.

The section 62 calculation of income is still deficient, in our view, as the entrepreneur actually needs an amount which approximates his or her business cash flow. If the business is to continue, all the usual expenses have to be paid, and naturally the banks and others won't forgo amounts owed to them. Calculating the benefits on adjusted net income unfairly assumes that the money to pay those business expenses will continue to flow in from somewhere. If the entrepreneur is actually pivotal to generating the cash flow to the business and he or she is unable to work, auto insurance benefits must make up the shortfall.

We do see the section 63 provision, which permits the entrepreneur to contract with the insurance company for a particular level of coverage in advance, as a positive step. We're keen to understand how this provision will actually be applied in practice by the insurance companies, and we would be pleased to consult further with the government and the industry on this particular matter.

In summary, while we find the recent draft regulations an improvement with regard to the treatment of the self-employed, we still have several serious concerns about Bill

164. Our members' goals for auto insurance are simply not met in terms of Bill 164. They don't even come close.

Specifically, the \$15,000 monetary threshold for tort action seems to run the risk of becoming the floor for pain-and-suffering claims, as well as driving up premium costs and legal and administrative expenses. The enhanced structure of benefits for economic loss is simply too rich and likely to become as unsustainable as WCB benefits. In fact, our contacts in and about the WCB indicate that there has been major discussion in terms of the development of this particular benefit structure vis-à-vis the WCB, and that gives us great concern.

Finally, I would say that as there is no proactive demand for changes to the OMPP in the small business community, any new system which significantly increases auto insurance premiums will be met with strong resistance and will become another serious source of irritation between the provinces, government and owners of small firms.

The Chair: I know my wife will be listening this morning; she's a member of your association. She can be a bigger critic than Mr Mancini, and you're up.

Mr Remo Mancini (Essex South): You've said many of the things this morning that I've been saying all week long; that is, that the government has taken the 18 pages of regulations which were attached to the Ontario motorist protection plan, which were generally considered to be user-friendly, and turned them into 68 pages of unintelligible bureaucratese.

Interjection.

Mr Mancini: As you can see, the government has felt the wrath of many people this week, so they constantly interject when other members are making points. We'll just have to ignore them as we're going through this process.

The point about economic loss being taken away—a right being taken away from people—has also been made by other groups before this committee. I don't know what the average income of a small business owner is, but I can tell you this, and I'd like your opinion on it: If a small business owner supporting a family, earning approximately \$35,000 a year, was killed in an automobile accident, his family would receive \$120,000 and that's it, that would be the extent of it. Because the right to sue for economic loss has been taken away by the NDP, I believe the families of many, many thousands of small business owners may be put at great financial disadvantage. I was wondering if your association was aware of the effect of this change and how you feel about this change.

Ms Andrew: Yes. We said in our brief that we are concerned about the fact that people who sustain economic loss are not entitled to sue, and that would include the families of someone who's actually killed in an auto crash. That very serious situation is simply not going to be dealt with fairly; meanwhile, many other very small claims will go forward to the courts.

The average small business person, incidentally, earns something like \$29,000; it's not a princely sum. But if anyone were earning more than the ceiling, his or her family would be left, no question.

Mr Jim Bennett: Mr Mancini, the difficulty we tried to point out in terms of section 62 and section 63 of the regulations, what was covered and what was not, is compounded by the fact that you can't sue for economic loss. So in the case of most of the small firms that you're talking about, that have significant bank loans, have equipment their estate would be lucky to get 10 cents on the dollar for if they had to liquidate, are not covered because they can't sue for economic loss and are not covered adequately under the provisions of section 62 and section 63. So there is a gap there, and that's one of the gaps that Judith was mentioning.

Mr Mancini: We're beginning to find out that possibly factory workers and small business owners are the ones who are going to be hurt the most by this legislation. They're going to be given the right to sue for non-economic loss, but the disadvantage of that is that they're losing the right to sue for economic loss, and the benefits there would be far greater, as all witnesses have stated on the record.

1020

You're aware, I would think, probably more than anyone else in this room—including the government members, who know a great deal about things that are going on—how difficult this recession has been, not only on small business owners but on the employees of those firms. We have been told by Mercer, the government's hired consultants, that they foresee Bill 164 costing policyholders 4.5% more, minimum. If you factor that out through the Ontario economy, that's slightly less than \$200 million. That's a \$200-million regressive tax—

The Chair: Thirty seconds left.

Mr Mancini: —being placed on policyholders who have not asked for Bill 164. And that's the minimum; we're not talking about the maximum, which could be \$600 million. Do you think that at this time the economy could sustain another \$200-million to \$600-million tax?

Ms Andrew: Absolutely not. We believe that the estimates are perhaps understated, given the WCB-esque benefit structure that's contemplated here. You can't over-emphasize what a dreadful financial situation the WCB is in, and it's dealing with the same kinds of rules; in fact, a slightly less generous benefit structure. When the economic times are difficult, it will be a situation where people can't find jobs and end up staying on auto insurance. The loss costs may in fact end up being more than the Mercer actuaries predicted, in which case that has to translate into premium increases that people simply can't afford to pay.

The Chair: Thank you. Mr Tilson.

Mr David Tilson (Dufferin-Peel): I appreciate you coming and giving your thoughts from the independent business position, because I think this legislation—and I hope it wasn't intentional, because much of the legislation that's gone on in this place since this government has taken power has been against business and has been against independent business, the small business person.

Many small business owners, as you know, them don't draw a very large salary. They put their money back into the capital of their firm, so their earnings form part of the

capital of their firm. Therefore, the whole principle of compensation contemplated under this legislation really isn't fair to the small business person, because compensation is based solely on their drawings, which are minimal. They can't survive if they don't keep pouring money back into their businesses, so that compensation, as this bill has been designed—I'd be interested in hearing your thoughts on that—is really unfair, because a small business person simply can't take the salary that one who works for a large company would see. That's just not the way the system works. I think that's the problem with this government: It simply doesn't understand how the economics of this province work. Could you comment on that?

Ms Andrew: That's correct. There's absolutely no question that small business owners often don't draw a large salary. Either the business is new and they're busy plowing profits back into the business to help it grow, or they're in a period of reinvestment and simply aren't taking a large salary.

Section 62 specifies an adjusted profit calculation as the basis for the income benefits, but roughly half of business corporations in the province in any given year actually don't earn profits. That's not because they're not viable, ongoing businesses. It's quite simply that they're in a period of reinvestment and so on.

So the notion of calculating the benefits based on that adjusted profit base will not do the job. What the small business entrepreneur needs is something closer to the cash flow he or she was generating by being a pivotal, vital part of that business, actually bringing in that cash flow. If they're not able to work and that cash flow doesn't come in, they're going to be in very dire straits indeed.

Mr Tilson: I think the problem with this legislation, like so much of the NDP's legislation, is that we're all the same: We're all making the same or our abilities are the same; there's no chance for improvement. I mean, the entrepreneur is going to expand his business even if he's taking out a draw, but they're assuming that he or she is going to stay the same.

The other issue I'd like you comments on deals strictly with the independent entrepreneur. If that person is involved in an automobile accident and isn't able to carry on his or her business, there's no compensation. In other words, they simply go out of business. Hence, you could have that person plus his or her family on welfare and all the social services this government has lost complete control of.

Ms Andrew: That is a possible scenario. Mind you, section 63 does allow that pre-arranged contract with the insurance company, which is a beneficial step. But again, we still don't know what application procedures will be in place by the insurance companies, what rules they'll use to decide what level of coverage that individual can buy.

Mr Tilson: It's one more add-on cost to the entrepreneur.

Ms Andrew: And it's an add-on cost, absolutely.

Mr Tilson: The average person doesn't have that, but the entrepreneur does it, and it's more anti-business. I believe Mr Harnick has a question.

The Chair: I'm sorry, but you've run out of time. Mr Klopp.

Mr Paul Klopp (Huron): Thank you very much for coming today and bringing your brief. A couple of points: I think you hit it very well, that companies, individuals, independent business people don't really question their auto insurance very much until the day they have an accident. That is what we have found and why we have taken on reviewing the OMPP and going to Bill 164, because people, not only entrepreneurs, have found out they're not adequately covered under the present system. That's why over the last year and a half the minister has consulted with the Insurance Bureau of Canada and people like yourselves, asking individuals and companies to come forth and bring up ideas. This is part of the process today.

You mentioned section 63. That was put there especially because under the present system, if you get in an accident today and you're paying a premium, you'll find you're not adequately covered. Do you not think this is a far better step than the present system we're under right now?

Ms Andrew: We acknowledge that that is an improvement, no question. We have no fundamental objection to looking at the benefit structure and looking for gaps and dealing with those gaps, and that's what your government has done. But that's got to be done with an eye to affordability, legal and administration costs and all those other things.

The effect of adopting a WCB type of benefit structure, with the benefits non-taxable in the individual's hands, will actually yield overcompensation for some people. That's why we're recommending that you revisit the benefit structure and ask the actuaries to do some of these calculations on replacement ratios: to see whether that is an appropriate level of benefits to be recommending under Bill 164.

The small business issue has been somewhat covered, but the individual needs more in the line of cash flow replacement rather than net profit or income replacement. It's still not clear exactly what will be available to that individual, and obviously it's going to be an extra expense to have to purchase that coverage under section 63. Extra insurance costs are simply not absorbable in this climate. Small and medium-sized businesses have really had a struggle in the last couple of years, and they can't accept anything more than a nominal increase. So we need to look at the benefits structure in light of the costs that's going to entail.

1030

Mr Klopp: The one point about the benefit if you're being paid if you get in an accident: 90% of net has been changed from 80% of gross. That was one of the things Mercer looked at. As you pointed out, every person's individual income tax is a bit of hindsight and putting into the future to a short extent. But for the short term, say I get in an accident tomorrow morning; this can be based on my income tax of last year. As I am an independent person, a farmer, this present system really put me in very bad straits. I really had to make sure I had other insurance, compared to even the old system if I won my tort case—if I won, that is. So for the short term, maybe the first year, you may get a little bit more than you would have if you'd

been in the workforce. However, if you were unfortunate and stayed in the system longer and didn't get rehabilitated—which we hope you could—and get back into your business, then you will not be overcompensated, according to Mr Mercer. In fact, Mr Mercer looked at it.

The Chair: Do you want to wind it up?

Mr Klopp: I think a colleague said it was 4.4% of the loss cost. So these are things we have been looking at.

Ms Andrew: That's correct. The overcompensation takes place in the first year.

Mr Klopp: It may.

Ms Andrew: It does. It takes place in the first year, and it peaks at roughly the six-month point. The reason is that the individual's marginal tax rate is lower, because half of what they're getting is non-taxable.

The Chair: Jim, you were nodding there and agreeing, but the camera wasn't on you and Hansard doesn't pick you up. If you ever reply again, always say yes or no, okay?

Mr Mancini: Or maybe.

The Chair: Or maybe. Did you want to say something, Jim?

Mr Bennett: I'd just like to have one final word, if I could. For the benefit of some of the members who weren't here in 1986, this province faced, at that point, a liability insurance crisis, where premiums were soaring and businesses could not get insurance. We think the benefit level is generous to the point where you're going to face something similar. Insurance costs are one more element that businesses look at when they're making decisions on where they locate. We already are at a significant disadvantage in terms of tax rates, in terms of some of the other neighbouring jurisdictions. Be careful what you do here, that you don't make it so rich that it's another reason to locate part or all of your business outside the province.

The Chair: Thank you, Jim and Judith, for coming before this committee.

Ms Andrew: Thank you. We appreciate the opportunity.

ONTARIO FEDERATION OF LABOUR

The Chair: The next group we have is the Ontario Federation of Labour. Would you come forward, please. I'd like to welcome you before the standing committee on finance and economics. You can get a glass of water. We've got ice cubes back in today; yesterday, it was so cold in here, we took the ice cubes out to keep warm.

We have one half-hour, until 11 o'clock. In that time, could you leave some time at the end for questions from the three caucuses? We'll start off with the Conservative caucus, with Mr Tilson, as soon as you're done.

Mr Ken Signoretti: My name is Ken Signoretti, executive vice-president, and Duncan MacDonald is the programs coordinator. I guess you have our brief, and rather than just sitting and reading it, I'd like to just make some specific comments to some issues.

First of all, I would like to say that the Ontario Federation of Labour, and the labour movement as a whole, has been in favour of public automobile insurance for some time. As a matter of fact, our policy was struck at the 1961

convention. Our membership has supported that, continued to support that and still does support it. The Ontario Federation of Labour would at some point in time like to see public automobile insurance.

Having said that, there are a couple of other things we see within Bill 164 that were in Bill 68 and have not been removed that give us great concern. The biggest one, I suppose, is the issue of collateral benefits. If you looked at our brief in 1990 on Bill 68, we had a great deal of concern about the issue of collateral benefits, with the sick benefit plans and the long-term disability being the first payer as opposed to being the last payer.

The auto insurers, we believe, should not have the luxury of having that benefit with that policy. It does a couple of things. One—and we've outlined a number of numbers in our brief—is that it puts added pressure when a union goes into negotiations, and I suppose it puts added pressure on people even within the small business community, who don't have a union, because these plans were primarily designed for sickness and health, these plans were designed for long-term disability, and by having them pay first as opposed to the auto insurers, it really distorts the whole question.

I guess those are two of the biggest concerns we have as a federation. But having said that, if you look at the draft legislation as it is, we are in support of a number of things. We are in support primarily because, first of all, what it actually does is that I believe 98% as opposed to 91% are now being covered under the plan, and the maximum is now raised to \$1,000 as opposed to the \$600 it was before under Bill 68. These are all positive plans and these are all positive positions, and we support that.

It's extremely important for workers. I just want to allude to something the CFIB mentioned when it talked about the difficulty in the bill for small business and small employers. Workers have a great many problems too; small business people are not the only ones who are struggling. The problem is that workers are struggling, and I think this plan really extends the coverage and gives us something in terms of workers, in terms of how they do things. We believe it's really important that Bill 164 goes through. We believe that it will be beneficial to the people we represent, in the main. With some of the faults, our position, we would like to say, is that we support Bill 164.

One thing I would like to add just in closing: I agree with the CFIB to a certain degree about the problems within workers' compensation. There are problems. Mind you, the problems we see are different from the problems they see, but collectively there is a problem. One of the things that has been happening in the last number of months, particularly when the committee went out on hearings about stress-related incidents, is that one of the things being more talked about, even within the employer community, is that there should be a royal commission with an all-encompassing structure which takes—well, it might even look at auto insurance.

I'm not suggesting for one moment that that's the answer, the panacea for everything. There are problems within that, but maybe collectively within all of those problems we might find some kind of solution. I just want

to add that the briefs that were coming from the employer community were that they would probably welcome at least some discussion around the issue. I know there's been talk about a royal commission within that process, and maybe the time has come that we should look at all of these things in an encompassing way. Those are my remarks, Mr Chairman, and I welcome any questions, unless Duncan has anything to add.

The Chair: Mr Harnick.

Mr Charles Harnick (Willowdale): Sir, I'm a little bit confused, because I notice at the opening of your presentation, early on in your paper, you state that you were disappointed that the government didn't keep its promise and institute a public auto scheme. What I'm confused about is how, on that premise, you can support this bill.

Mr Signoretti: Because it increases some of the things we were looking at: increasing the minimum of \$600 to \$1,000, and there's a certain portion now of the right to sue. All of these things are an improvement within the bill. That's the reason we support it.

1040

Mr Harnick: Let's deal with that, then. Do you know that if a 35-year-old worker who has two kids and a spouse is killed in an accident and happens to be making \$35,000 a year, after he or she is dead and buried, the surviving spouse and children of the breadwinner who has been lost will receive the grand total of \$117,000 for the rest of their lives? How can \$117,000 support this family for ever? Can you possibly be in favour of a scheme that so blatantly hurts a worker's family and a worker's protection?

Mr Signoretti: But as I understand it—

Mr Harnick: Tell the 35-year-old union people out there who are watching how you like this bill now.

Mr Signoretti: That's why we're here. We support it. We think it's a bill that will go some way to addressing some of the problems that happened under Bill 68. I think that's the issue here.

Mr Harnick: May I tell you that under Bill 68 and under the previous auto legislation before that, this 35-year-old worker would have received \$700,000? His family would have been supported instead of living at the poverty line.

Mr Signoretti: But we don't see that in here.

Mr Harnick: Are you going to tell me that you're sanctioning and telling—

The Chair: Mr Harnick—

Mr Harnick: Excuse me. Do you mind if I finish my question?

The Chair: Mr Harnick, can we use a different tone? He is not on trial.

Mr Harnick: I'll ask the question.

The Chair: Ask your question, but—

Interjections.

Mr Tilson: You can't say what tone he can use.

Mr Harnick: I'll ask the question any way I want, Mr Hansen. You can sit there and be quiet like everybody else in here should.

Mr Tilson: You're dead wrong. You have no right to say what his tone is or isn't.

Mr Harnick: Can I carry on, please?

The Chair: Go ahead, Mr Harnick.

Mr Harnick: Sir, are you sanctioning a plan that will provide for a family, after a fatality, what amounts to three years' protection, and that's all, and you're going to leave that family to the welfare rolls? Is that what you're sanctioning here, or are you are you prepared—

Mr Signoretti: We are sanctioning—

Mr Harnick: Let me finish. Or are you prepared to admit that this bill has some very serious deficiencies and it should be re-examined?

Mr Signoretti: Yes, we're prepared to admit that probably there should have been public automobile insurance in the first place, but we're also saying to you that this bill goes a great deal better than what Bill 68 was, and that's the importance for us.

Mr Harnick: Bill 68 would pay this family \$700,000. Bill 164 goes to pay at \$117,000.

Mr Signoretti: Just a moment. We can talk in abstract—

The Chair: Can I say—

Mr Signoretti: Now it's my turn.

The Chair: Okay, go ahead.

Mr Signoretti: We can talk in abstract about what it does and what it's supposed to do. I've negotiated a lot of collective agreements over my lifetime that were supposed to do a lot of things that they didn't do. I don't want to sit here and take a hypothetical situation of what might or might not happen. That's the problem we've got, Mr Harnick. The issue with this bill is that it addresses some of the issues that we're concerned with. It doesn't address all of them, and I'm saying that to you.

Mr Harnick: Let me tell you this: If you negotiated a contract on behalf of your union members that would pay a member this kind of money after a family's suffered an actual economic loss, I'll tell you, that union would have you out on your ass so fast, you wouldn't be able to blink.

Mr Signoretti: But I also don't want to go in front of the membership and say, "You're going to get a certain amount of money," when you know in fact that they may or may not get that money. That's the problem.

Mr Tilson: We know they're not going to get that money. That's the problem.

Mr Signoretti: They know they're not going to get the \$700,000. That's the problem.

Mr Harnick: Pardon me? An innocent victim is not going to get the \$700,000?

Mr Signoretti: You don't have to turn this into a shouting match. If you want to ask me a question, ask me a question.

The Chair: It's easier for Hansard if one person at a time is speaking, so we can get both conversations. Have you got a question, Mr Harnick?

Mr Harnick: Do I have any time left?

The Chair: You've got about two minutes.

Mr Harnick: Then I have a question. Are you going to tell me that the official position of the OFL is to sanction a scheme that is going to allow injured workers to suffer an economic loss beyond what accident benefits are going to pay them?

Mr Signoretti: No. What I'm saying to you is that the Ontario Federation of Labour is sanctioning a scheme that's better than what was before, but not as good as we'd like to have it.

Mr Harnick: Are you saying we can't go ahead and ask the government to make it even better?

Mr Signoretti: Sure, go ahead and do that.

Mr Harnick: Well, what I'm asking you—

Mr Signoretti: Ask them, if it's going to make it better. We have no problem with that.

Mr Harnick: What I'm asking you, if you'll listen to my question, is whether it's right that we have a scheme that pays people less than their actual economic loss. Are you saying the position of the federation of labour is to accept less than what your actual economic loss is if you're the innocent victim in an accident?

Mr Signoretti: And I'm saying to you that you don't know that that's going to happen.

Mr Harnick: Well, I sure hope they find somebody better to represent workers than your organization.

The Chair: That's his opinion.

Mr Signoretti: Well, there's an election in November. I might not be here. Who knows?

Mr Harnick: Well, I sure hope your members heard your answers today.

The Chair: We'll go on to Ms Haeck.

Ms Christel Haeck (St Catharines-Brock): Thank you, Mr Signoretti, and it's nice to see Duncan MacDonald again. Thank you, Charles, for your two cents worth.

I have to concur with you, from my personal experience in what's happened in my own constituency office and comments I've heard from accident victims. This is sort of a long preamble, but the situation is that one woman—she and her husband were facing loss of their home because the lawyers for the insurance company couldn't get together to figure out who really was at fault for the accident and who was going to be the payer as a result of this accident. Her husband was running out of his unemployment insurance and, because of the accident, she was also injured and not able to do the work that she previously had done. As I say, they were about to lose their home. Three years after the accident, and they'd seen nothing, hadn't even gotten to the discovery stage.

I hear the bombast from Mr Harnick with regard to \$700,000 being given to a victim, and I think you and I would have to concur that the tort system is strictly a lottery and doesn't pay out these kinds of awards. In your

experience, in your research, either one of you, have you actually seen these kinds of awards coming to workers?

Mr Signoretti: Not very many. There's a couple of things of here. First, the average worker can't afford to hire a lawyer—

Ms Haeck: Like Mr Harnick, who's still running his practice.

Mr Signoretti: —can't afford to hire a lawyer and get into long legal costs to fight it. That's the first thing. Second, my experience has been that it just does not happen. Duncan might have something to add to that.

Mr Duncan MacDonald: I think you mentioned, and it was in *The Road Ahead* as well, that it was a bit of shooting the dice, to quote a politician at another level. There may be some people who "win." What we're looking at is a system that is fair to the vast majority of people, that if there is a need, you get the benefit you deserve.

Ms Haeck: I come from a union background myself, which I know some people around this table might find offensive. The reality is that as workers working on behalf of workers, what we have tried to institute in this legislation is seeing rehabilitation recognized as something that is needed right at the onset in making sure that people actually do get back to work in a timely fashion and are productive members of society. I would suggest, from everything you've said and what I have been able to read in your presentation, that you would heartily concur with that.

Mr Signoretti: We do.

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Mr David Winninger (London South): Do we have time for a supplementary question?

The Chair: Yes.

Mr Winninger: Mr Harnick put forward perhaps one of the worst-case scenarios, where the 35-year old worker is killed. First of all, I don't believe that ordinary workers have been that well served by the tort system in the past. First of all, they may not have had the means and resources to retain counsel to pursue litigation. Second, during the four or five years it would take to bring litigation to a conclusion, often their wives and families would suffer the penalty of not having adequate benefits.

And let's say the 35-year old worker did have the resources to hire a lawyer and take it to court. If the accident victim happened to be at fault, then that award would be reduced: it might be 25%, it might be 50%, it might be 100%. Just because the deceased happened to make some fractional error in judgement and was found to be the perpetrator of the accident, it would mean his surviving family would be out in the cold completely. So I think you might agree with me that having a fairly adequate benefit package helps to avoid some of the pitfalls that ordinary workers found themselves in under the former tort system.

Mr Signoretti: One of the things we have found has been my experience over the years, or if you talk to most people who are active in the labour movement. I think that's really what workers look for, that kind of thing. The fact of the matter, as you said, Mr Winninger, is that most of them just can't afford lawyers to get into long legal

costs, and when they do, they usually wind up being the loser in the whole thing.

Mr Winninger: And in the kind of case Mr Harnick cited, they might have life insurance available privately or through work and other death benefits.

Mr Signoretti: I've heard that one before too, about all these wonderful things they can have—that they usually don't get, though.

Mr Duncan MacDonald: There's just a slight point I wanted to make about that. In our brief we pointed out we have been long-term supporters of public car insurance. When the government made the decision we told them, "We think you're wrong," and, as with any government, it will suffer the political benefits or consequences of its actions.

We approach Bill 164 in that context. The government said, "We are putting forward these proposals." We do not believe this should be the final word on car insurance. There are some things in it that we think are an improvement to the present situation. It was in that same spirit that we made our presentation under the previous government with its Bill 68. We said, "Here are some of our concerns." You either say you're part of the process or not. The fact that we're here today is not that we're suggesting this is the best possible legislation in the entire world. That's why we're having these hearings and, hopefully, improvements will come out of it.

The minister, in his remarks in December when he introduced this, said it was the beginning of a process, not the end of the process, so it is in that spirit that we're here today. There are things in here that we think will improve the situation for the people of Ontario; there are other things we think the government should have looked at and would hope it looks at at a future time.

The Chair: One minute, Mr Owens. Quick.

Mr Stephen Owens (Scarborough Centre): Very quick. There have been some comments back and forth about the quality of representation that the OFL may be or may not be providing for its membership. In my view, in looking for representation, I would certainly be looking for a group that would be looking at my long-term needs to provide stabilized benefits. I don't think I would be looking for a representative, whether it's through the OFL or private counsel, a person who's still involved in the personal injury bar, to make a decision for me—

The Chair: Mr Owens, a question?

Mr Owens: —that I should get involved in litigation that may or may not give me \$700,000. Is that the kind of representative you would choose as your counsel?

Mr Duncan MacDonald: No question.

The Chair: Mr Mancini, seven minutes.

Mr Mancini: Mr Signoretti, thank you for coming before the committee; I appreciate your brief. I also appreciate the criticisms you have made in your brief in regard to Bill 164.

I have some questions about benefits, economic loss, costs and a number of other things.

It has been established by the government consultant, Mercer associates, that Bill 164 will cost consumers more money. So we don't get into an argument or interruptions from government members, I want to deal only with the government's own statistics and the bill as it now stands.

You know and I know that Bill 164 removes the right to sue for economic loss. You know and I know that Mel Swart, the former MPP for Welland-Thorold, was here yesterday. He claimed in his brief to the committee that removing the right to sue for economic loss and replacing it with the right to sue for non-economic loss with the \$15,000 deductible, according to Mr Swart's own words, in fact reduces benefits to accident victims by 15%. Those are all facts on the record.

We go back to Mr Mercer, who says rates will go up 4.5%. We extrapolate that across the province and that's nearly \$200 million. Your members are suffering through one of the longest and most severe recessions we've had since the Great Depression. Many of them are out of work. They have to keep their automobiles so they can look for work, obtain work and go to work, even if times are tough. You're aware of that. These people will pay more for their automobile insurance. Mr Swart says, and we agree with Mr Swart, that they will get less in return. Do you think these modest changes giving access to tort for non-economic loss are worth the increase in premiums that your many thousands of members will have to pay, the almost \$200 million, Mr Signoretti?

Mr Signoretti: First of all, let me say that I have a great deal of respect for Mr Swart, and that's all I can say. I'm not here to quarrel with him. The only thing I can say to you is what we are hearing from our people in terms of automobile insurance: One, you're absolutely correct, and Duncan alluded to it, is that everybody would have liked to have had public automobile insurance. It's not there, so what do you do?

One of the concerns they had was the amount of money they're getting now under the present plan. This will improve that. If it's a modest improvement, it's a modest improvement. I don't know what the word "modest" really means. All I know is that from our membership, they're content that there will be changes and that they will be better protected if in fact they get into an automobile accident.

On the question of rate increases, everybody is going to get mad at every rate increase that ever comes up. I don't know how you deal with that. All I know is what we hear, that, "We're not happy with the scheme as a whole, but yes, the changes basically are good for us, and we appreciate that."

Mr Mancini: Are your members aware that they will be receiving 15% less in benefits from that pie?

Mr Signoretti: But I don't know that.

Mr Mancini: I'm using Mr Swart's figures so that the government members can't accuse me of fabricating anything. I want to use figures that people who are respected are using, and I want to ask you these questions because your presence before this committee is important.

Ms Haeck: Mel said it was an improvement.

Mr Gerry Phillips (Scarborough-Agincourt): Mel said he wouldn't do it.

Mr Signoretti: I don't know what Mel said. Interjections.

The Chair: Mr Mancini has the floor. Sir, go right ahead.

Mr Signoretti: I don't know what Mel said.

Mr Mancini: I'll give you a copy.

Mr Signoretti: Fine. That doesn't help me now. I don't know what Mel said. All I'm saying to you is that if, over the lifetime, our workers get a better increase, that's what the issue is here. We can't deal with some hypothetical. You're trying to deal in the same way, Mr Mancini, with some hypothetical situation that Mr Harnick deals with: that way out there they're going to get this or they're going to get that. We can't deal with that.

Mr Mancini: Okay, Mr Signoretti, let's not deal with the hypothetical. Let's not deal with the facts that—

Mr Signoretti: You're doing that.

Mr Mancini: Okay, let's try it another way. Let's put some more facts on the record. When the NDP were in opposition, it proposed government-owned automobile insurance with full tort rights. Is that correct?

Mr Signoretti: That's right.

Mr Mancini: To sue for both economic loss and non-economic loss.

Mr Signoretti: That's right; absolutely. That's my understanding, yes.

1100

Mr Mancini: Those are facts. Today we hear from Ms Haeck, and I quote her exactly, "Suing for economic loss is strictly a lottery." Well, it wasn't a lottery before, but it's a lottery today. Mr Winninger says, and I quote his exact words, "not well served by tort."

I'm having great difficulty because, on the one hand, I remember many speeches saying, "We need government-owned automobile insurance with full rights to tort." It wasn't a lottery then; people were well served by it then. Now all of a sudden we're not going to be well served.

I'd like to know your opinion on tort. If you were able to convince the government to introduce government-owned automobile insurance, would your members like to have the full right to tort?

Mr Signoretti: I don't know that at this point. I really don't.

The Chair: Mr Mancini, time has run out.

Mr Mancini: Mr Chairman, time has not run out. I started at 10:58. It's not 11:05 yet.

Mr Klopp: Are you challenging the Chair?

Mr Mancini: Yes, I am.

The Chair: I have watched exactly, and it's 11 o'clock by my watch here. On your Mickey Mouse watch, maybe the arms are in a different spot. I'm sorry. I have the time right here, 11 o'clock, and I divided the time, seven minutes apiece.

Mr Mancini: Mr Chairman, on a point of order: I appreciate your timekeeping, and if your timekeeping is different than mine, then I will accept your ruling, but I don't think I have to accept any of the insults that you directed in my—

The Chair: I'm sorry I made that one statement.

Mr Mancini: Mr Chairman, I'm not finished. I'm surprised that you, of all people, would make such comments. I've been trying to elicit, from the guests we have here this morning, important facts, trying to establish a base for these facts. For you to make those comments is a slur on everything I've said this morning, and I resent it deeply.

The Chair: I have a good friend who paid over \$300 for a Mickey Mouse watch, so it's a common watch around here.

Gentlemen, I'd like to thank you for appearing before this committee and for your input into this bill. Thank you.

SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

The Chair: The next group is the society of automobile insurance of Quebec. Would you come forward, please. I'd like to welcome you before the standing committee on finance and economic affairs. I'm sorry; I'm not bilingual. We do have interpreters here for any of the members who need them. I've asked Franco to leave these machines here because we've had some trouble hearing some of the presenters; maybe we'll leave them for the rest of the day. You can turn to channel 1 for the English translation. As I say, it's been a little noisy here, and that's why we need these. Go right ahead, and welcome to the standing committee on finance and economic affairs.

M. Claude Gélinas : Monsieur le Président, mesdames et messieurs les députés, je me présente. Mon nom est Claude Gélinas. Je suis le secrétaire de la Société de l'assurance automobile du Québec et le directeur des services juridiques de la Société.

Je suis accompagné aujourd'hui de M. Camille Genest, qui est le directeur de la programmation et des opérations centrales à la vice-présidence des services aux accidentés à la Société, ainsi que de M. Martin Breton, qui est le chef du Service de l'actuariat à la vice-présidence aux finances et administration, toujours à la Société.

Je voudrais simplement faire comme remarque de départ que nous avons accepté l'invitation d'être ici ce matin pour vous fournir des renseignements et de l'information sur le fonctionnement, l'administration et le fondement même du Régime d'assurance automobile du Québec tel qu'il fonctionne, et que nos remarques ce matin se limiteront au fonctionnement du système tel qu'il existe au Québec.

Je donne la parole maintenant à M. Camille Genest.

M. Camille Genest : Monsieur le Président, à l'invitation du ministère ontarien des Institutions financières, la Société de l'assurance automobile du Québec est heureuse de pouvoir contribuer à la réflexion qu'effectuent les parlementaires de l'Assemblée législative au sujet de l'assurance-automobile.

Déjà, le 4 mai 1989, des représentants de la Société soumettaient à la Commission de l'assurance automobile

de l'Ontario un mémoire décrivant le Régime d'assurance automobile du Québec. Aussi, un avis fut présenté par la Société de l'assurance automobile du Québec au Comité permanent de l'Assemblée législative de l'Ontario, le 7 février 1990. Cet avis contenait un historique du régime québécois, un exposé de la législation en vigueur, des données relatives à l'assurance sans égard à la faute et à la relation à établir avec le nombre d'accidents, ainsi qu'une réflexion sur la contribution de la réforme du système d'assurance-automobile du Québec à la prévention des accidents. Nous avons également eu le plaisir et l'honneur de recevoir un certain nombre de missions de fonctionnaires de l'Ontario chargées de préparer les réformes gouvernementales en matière d'assurance-automobile.

À titre de contribution à l'examen des questions d'assurance-automobile effectué par l'Assemblée législative de l'Ontario, nous vous proposons d'effectuer une revue de la couverture du Régime d'assurance automobile du Québec. Cette revue traitera de l'admissibilité, de l'indemnité de remplacement du revenu, de l'indemnité de décès, de l'indemnité pour dommages non pécuniaires, de la réadaptation et du remboursement de certains frais, y compris les frais généraux et ceux d'aide personnelle.

L'essentiel de la réforme québécoise : Au tournant des années 70, il était devenu évident que la situation de l'assurance-automobile au Québec nécessitait un virage important. Les coûts ne cessaient d'augmenter et de nombreuses victimes d'accidents de la route étaient sans protection. Face à cet état de fait, le gouvernement du Québec créait, le 5 mai 1971, le Comité d'étude relatif à l'assurance automobile, dont le mandat consistait à identifier les causes de la hausse des coûts de l'assurance et à proposer des moyens pour indemniser les victimes d'accidents au meilleur coût possible pour la collectivité. Le Comité déposait, en 1974, un document connu sous le nom de Rapport Gauvin, du nom de son auteur, qui critiquait sévèrement le système d'indemnisation alors en vigueur.

Ce rapport révélait notamment qu'au Québec, une personne blessée sur quatre, 28 %, ne touchait pas de compensation, et parmi celles qui étaient indemnisées, bon nombre ne l'étaient que partiellement. De fait, près de 40 % de la perte économique encourue par les victimes non responsables n'était pas compensée et les délais de paiement étaient très longs. Le quart des victimes de dommages corporels n'étaient pas encore indemnisées après 18 mois. En outre, plus le montant de la réclamation était élevé, plus le délai entre la date de l'accident et le règlement final s'allongeait.

L'application de la notion de faute pour les dommages corporels engendrait parfois de longues enquêtes pour démontrer la responsabilité des fautifs. Ce principe d'établissement de la responsabilité empêchait l'indemnisation totale ou partielle de plusieurs victimes. Celles-ci, en effet, pouvaient voir leur requête contestée devant les tribunaux par les supposés fautifs et subir de très lourds délais dans le jugement, en plus d'encourir des frais judiciaires importants. Dans tous les cas, les victimes tenues responsables n'étaient pas indemnisées ni, par conséquent, leurs personnes à charge. Pire encore, lorsque l'auteur de l'accident était inconnu ou insolvable, l'indemnisation de ses vic-

times était compromise. Enfin, le montant de l'indemnisation, une fois fixé, ne pouvait plus être réévalué. L'indemnisation accordée pour le remplacement du revenu ne tenait pas compte de facteurs tels que l'inflation, l'augmentation du coût des biens et des services, les prélèvements fiscaux etc.

1110

Devant un tel bilan, le gouvernement institua une commission parlementaire et procéda à une consultation populaire dans toutes les régions du Québec. Finalement, en 1977, la Loi constituant la Société de l'assurance automobile du Québec fut adoptée.

Selon son mandat, la Société de l'assurance automobile du Québec doit : indemniser toutes les victimes d'accidents d'automobile sans égard à la faute ; réduire le coût d'utilisation de l'assurance-automobile et retourner aux assurés une plus grande part de leurs contributions ; couvrir les pertes réelles, et cela en diminuant les délais d'indemnisation ; introduire la pleine revalorisation annuelle des indemnités. Ces objectifs n'auraient pu être atteints, du moins en partie, sans la création d'un régime public. Le gouvernement a opté pour la mise en place d'un tel régime afin de réaliser des économies d'échelle et pour s'assurer que tous les efforts en matière de réadaptation et de promotion de la sécurité routière seraient faits.

Par ailleurs, ce nouvel organisme ne pouvait compter sur les impôts payés par les citoyens pour assumer l'indemnisation des dommages corporels des victimes de la route. Au contraire, la Société est, depuis sa création, un organisme financièrement autonome qui a la responsabilité de percevoir ses propres revenus et d'assurer «une pleine capitalisation», c'est-à-dire de disposer en tout temps des fonds nécessaires au paiement de toutes les indemnités découlant des accidents d'automobile survenus jusqu'à ce jour. La totalité des sommes nécessaires à l'indemnisation de toutes les victimes d'accidents de la route survenus au cours de l'année provient, d'une part, des contributions versées par les titulaires de permis de conduire et les propriétaires de véhicules automobiles et, d'autre part, des revenus générés par les placements financiers effectués par la Société.

L'indemnisation sans égard à la faute : La grande nouveauté de la réforme de 1978 a été d'introduire le principe de l'indemnisation sans égard à la faute pour les dommages corporels. L'accident routier a, très souvent, de multiples causes, et l'établissement de la faute a toujours été un processus complexe et coûteux qui était abusivement défrayé par l'ensemble des assurés.

Le principe de l'indemnisation sans égard à la faute est apparu comme un moyen efficace de réduire les coûts et les délais. De fait, le nouveau régime a engendré des gains d'efficacité importants qui ont permis de diminuer le coût relatif de l'assurance, les longues enquêtes, les procès et les poursuites judiciaires n'ayant plus leur raison d'être.

Il n'y a cependant aucun lien entre l'application d'un tel principe et la nécessité de mettre en place un régime public universel. En effet, ce type de régime existe dans plusieurs pays et dans plusieurs États américains au sein d'un système privé d'assurance. Au Québec, les compagnies d'assurances ont même, par le biais d'ententes admi-

nistratives, appliqué le principe de l'indemnisation sans égard à la faute aux dommages matériels. Mais l'indemnisation sans égard à la faute n'existe obligatoirement au Québec que pour les dommages corporels.

L'universalité du Régime : Il faut se rappeler qu'au Québec, avant la réforme de l'assurance-automobile, près du quart des victimes de dommages corporels causés par un accident d'automobile ne touchaient pas d'indemnités. Aujourd'hui, l'universalité du Régime assure le droit à l'indemnisation pour toutes les victimes d'accidents d'automobile indépendamment de leur âge ou de leur occupation. L'universalité du Régime touche également les contributions d'assurances qui sont obligatoires pour tous les titulaires de permis de conduire et tous les propriétaires de véhicules.

Les piétons et les cyclistes ne contribuent pas au financement du Régime puisque l'assurance s'adresse aux conducteurs et propriétaires de véhicules moteurs. Ainsi, les piétons ou les cyclistes ne peuvent faire appel à la Société s'ils heurtent un véhicule stationné sur la voie publique, un autre piéton ou un autre cycliste, ni s'ils font une chute sans qu'un véhicule automobile ne soit en cause.

Cependant, le conducteur ou le propriétaire d'un véhicule en mouvement est assuré pour les dommages corporels causés à un piéton ou à un cycliste sans qu'il ait à se défendre devant les tribunaux pour réduire les montants réclamés ou pour prouver la culpabilité du piéton ou du cycliste. À l'inverse, ceux-ci sont désormais assurés d'une indemnisation lors d'un accident avec un véhicule automobile en mouvement.

La couverture des pertes réelles : Le Régime d'assurance automobile repose avant tout sur l'indemnisation «des pertes économiques» attribuables à un accident de la route. Toutes les indemnités sont pleinement indexées annuellement au coût de la vie. Cette couverture est exceptionnelle puisque d'année en année, environ 85 % des Québécois sont assurés d'obtenir une pleine compensation de leur revenu perdu en raison d'un accident d'automobile. Quant aux citoyens dont les pertes de revenus seraient supérieures à la couverture maximale offerte par la Société, ils peuvent obtenir une protection additionnelle auprès de leur assureur privé.

Mieux encore, depuis la mise en place du Régime, les sommes retournées aux assurés se sont accrues, en dollars constants, de 35 % par rapport à l'ancien régime. Quant aux délais, ils n'ont aucune mesure commune avec ceux qui prévalaient avant l'existence du régime alors que les victimes pouvaient parfois attendre des années avant de recevoir une première indemnité, à cause des interminables batailles juridiques qui opposaient les parties.

L'admissibilité : Le Régime d'assurance automobile du Québec est fondé sur le principe de l'indemnisation sans égard à la faute. Il accorde une protection à l'ensemble des Québécois victimes d'un accident de la route survenu au Québec ou ailleurs dans le monde. Ainsi, les indemnités accordées par la Société de l'assurance automobile du Québec le sont, sans égard à la responsabilité de quiconque, pour l'ensemble des dommages corporels subis dans un accident d'automobile. Le résident du Québec bénéficie du Régime d'assurance automobile peu importe le lieu de

l'accident. Il est protégé au Québec et à l'extérieur du Québec.

L'indemnisation a pour objet de compenser les dommages corporels causés par une automobile, une de ses pièces, son usage ou son chargement. Elle couvre tout dommage physique ou psychique subi par une victime, y compris le décès, ainsi que les dommages aux vêtements portés.

Le Régime d'assurance automobile du Québec n'indemnise pas dans les cas suivants : si l'accident est causé par un appareil susceptible de fonctionnement indépendant comme, par exemple, un treuil de dépanneuse ; si l'accident implique des véhicules en partie exclus comme, par exemple, un tracteur de ferme, et qu'il a lieu en dehors du chemin public ; si l'accident implique des véhicules totalement exclus du Régime, soit les motoneiges et les véhicules tout terrain ; si l'accident survient en raison d'une compétition, d'un spectacle ou d'une course automobile sur un terrain ou un parcours fermé. Le droit à une indemnité se prescrit par trois ans à compter de l'accident ou de la manifestation du dommage.

Lorsque l'accident a lieu au Québec, est considéré résider au Québec le propriétaire, le conducteur ou le passager d'une automobile immatriculée au Québec. Par conséquent, ces personnes ont droit aux indemnités prévues par la loi sans égard à leur responsabilité dans l'accident et sans que la Société ne puisse exercer contre elles de recours subrogatoires. Le non-résident du Québec, victime d'un accident au Québec dont la voiture n'est pas immatriculée au Québec, a droit à l'indemnisation prévue par la loi en proportion inverse de sa responsabilité dans l'accident. La responsabilité est alors déterminée par preuve prépondérante et selon les règles du droit commun.

Entente Québec-Ontario : La Société de l'assurance automobile du Québec et le gouvernement de l'Ontario ont conclu, en décembre 1978, une entente relative à l'indemnisation des résidents de l'Ontario victimes d'accidents d'automobile au Québec.

En vertu de cette entente, dans l'hypothèse d'un accident au Québec impliquant un résident de l'Ontario, le processus est le suivant : Si l'Ontarien est conducteur, passager ou propriétaire d'un véhicule immatriculé au Québec, il est considéré comme un résident du Québec et est pleinement indemnisé par la Société comme tout autre touriste dans la même situation. Si l'Ontarien est non assuré, donc non couvert par l'entente, et s'il n'est pas conducteur, passager ou propriétaire d'un véhicule immatriculé au Québec, il sera indemnisé par la Société, mais dans la proportion de sa part de responsabilité dans l'accident. Si le résident de l'Ontario est un assuré, selon l'entente, et qu'il n'est pas conducteur, passager ou propriétaire d'un véhicule immatriculé au Québec, la Société ne l'indemnise pas. Il doit s'adresser à son assureur, qui l'indemniserait selon les bénéfices prévus par la Loi sur l'assurance automobile.

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Indemnité de remplacement du revenu : L'indemnité de remplacement du revenu que verse la Société vise à compenser la perte de revenu d'emploi subie par une personne qui devient incapable de travailler à la suite d'un accident d'automobile. L'indemnité est établie à partir de la perte

réelle de revenus. Le droit à l'indemnité de remplacement du revenu et le montant de celle-ci dépendent de la situation de la victime au moment de l'accident. Une indemnité de remplacement du revenu est versée à la victime qui est privée de prestations d'assurance-chômage ou d'allocations de formation à la suite de l'accident. Cette indemnité est calculée sur la base des prestations ou allocations ainsi perdues. Une indemnité de remplacement du revenu est également versée à la victime qui ne travaillait pas au moment de l'accident mais qui était sur le point d'occuper un emploi. Dans un tel cas, la victime est indemnisée sur la base de cet emploi.

L'indemnité de remplacement du revenu est versée à la victime tant qu'elle est incapable de vaquer à ses occupations. Dans le cas d'une incapacité de plus de deux ans, et afin de faciliter la transition entre la période d'inactivité et le retour sur le marché du travail, le Régime prévoit la prolongation de l'indemnité de remplacement du revenu pour une période additionnelle d'un an après que la victime soit devenue capable d'exercer un emploi en fonction de ses capacités résiduelles de travail. Enfin, une prolongation de l'indemnité de remplacement du revenu est également accordée à la victime qui redevient capable d'exercer son emploi, si elle l'a perdu en raison de l'accident.

Victime exerçant un emploi à plein temps : La victime qui occupe un emploi à plein temps au moment de l'accident a droit à une indemnité de remplacement du revenu si, à la suite de cet accident, elle devient incapable d'exercer son emploi. La victime reçoit une indemnité de remplacement du revenu tant qu'elle demeure incapable d'exercer son emploi. Après deux ans d'incapacité, la Société peut réévaluer l'incapacité de la personne en fonction de ses capacités résiduelles de travail. Lorsqu'il s'agit d'un emploi salarié, l'indemnité est calculée à partir du revenu brut tiré d'un emploi. Si la victime est un travailleur autonome, l'indemnité est calculée à partir du revenu brut reçu par un salarié pour un emploi comparable. Toutefois, si le travailleur autonome tire de son emploi un revenu plus élevé que celui fixé par la Société, l'indemnité est alors calculée à partir de ce revenu.

Le montant de l'indemnité de remplacement du revenu correspond à 90 % du revenu net de la personne. Le revenu net de la victime est égal à son revenu brut annuel d'emploi moins un montant équivalant à l'impôt provincial, à l'impôt fédéral, à la cotisation d'assurance-chômage et à la cotisation du Régime des rentes du Québec. Le revenu brut annuel d'emploi considéré est celui de la victime jusqu'à concurrence d'un montant maximal annuel assurable, lequel est de 46 500 \$ pour l'année 1993.

Victime exerçant un emploi temporaire ou à temps partiel : La victime qui occupe un emploi temporaire ou à temps partiel a droit à une indemnité de remplacement du revenu durant les premiers 180 jours suivant la date de l'accident, tant qu'elle demeure incapable d'exercer son emploi. L'indemnité de remplacement du revenu représente la perte réelle de revenu subie par la victime en raison de l'accident. À compter du 181^e jour suivant la date de l'accident, l'indemnisation s'effectue sur la base de la perte potentielle de revenu. L'indemnité de remplacement du revenu est établie à partir d'un emploi que la

Société détermine à la victime et du revenu brut correspondant à cet emploi. Lorsque la Société détermine un emploi à la victime, elle doit tenir compte de sa formation, de son expérience et de ses capacités à la date de l'accident.

La victime qui occupe un emploi à temps partiel et prend soin d'une ou plusieurs personnes invalides ou âgées de moins de seize ans peut également recevoir une indemnité pour frais de garde si, en raison de l'accident, elle devient incapable de prendre soin de ces personnes.

Victime sans emploi capable de travailler : La victime qui n'exerce pas d'emploi au moment de l'accident n'a droit à aucune indemnité de remplacement du revenu durant les 180 premiers jours suivant la date de l'accident, l'indemnisation étant fondée sur la perte réelle de revenus durant cette période.

Si la période d'incapacité se prolonge au-delà de 180 jours, la Société réévalue l'incapacité de la victime en fonction de son potentiel de travail au moment de l'accident afin de compenser la perte de gains que cette dernière pourrait subir à moyen et à long terme. Dès ce moment, la victime est indemnisée pour la perte potentielle de revenus subie en raison de l'accident.

Ce dispositif contient toutefois deux exceptions donnant droit à une indemnité de remplacement du revenu durant les 180 premiers jours : lorsque la victime démontre qu'elle aurait exercé un emploi si l'accident n'avait pas eu lieu, et lorsqu'elle est privée de prestations d'assurance-chômage ou d'allocations de formation en raison de l'accident.

Aussi, la victime peut toujours, si la situation correspond aux conditions prescrites, recevoir une indemnité pour frais de garde. Dans ce cas, la victime peut choisir, au 181^e jour d'incapacité, de continuer de recevoir l'indemnité pour frais de garde ou d'être indemnisée sur la base d'un emploi potentiel correspondant à ses capacités.

Victime âgée de seize ans et plus qui fréquente à temps plein un établissement d'enseignement : L'étudiant âgé de seize ans et plus a droit à une indemnité aussi longtemps qu'il est incapable d'entreprendre ou de poursuivre ses études et que cette situation le retarde dans la réalisation de son programme scolaire. La loi vise à compenser le retard subi dans les études. Ainsi, aucune indemnité n'est payable à la victime qui, bien qu'ayant été incapable de poursuivre ses études, n'a par contre subi aucun retard dans celles-ci. C'est que l'indemnisation est fondée sur le principe de la perte économique réellement subie en raison de l'accident, et si la victime ne subit pas de retard dans ses études, elle ne devrait pas en subir dans son entrée sur le marché du travail. La victime a droit à cette indemnité jusqu'à la date prévue au moment de l'accident pour la fin des études en cours. Aussi, la victime qui travaille au moment de l'accident—

The Chair: Excuse me. We have five minutes left for your presentation. You can read all this into the record; it will go into the record. You should sum up if you want to give the committee members a chance, but it's up to you if you want to go right straight through until 11:30. It's your choice; you're the presenters. I just wanted to let you know.

M. Genest : Merci. Alors, je vais résumer durant les cinq prochaines minutes.

Donc, pour la victime âgée de seize ans et plus qui fréquente à plein temps un établissement d'enseignement, le dispositif est le paiement de forfaitaire qui correspond au retard pour l'entrée sur le marché du travail. Ce forfaitaire s'élève à 6 208 \$ par année perdus au niveau secondaire et à 6 208 \$ par session d'études ratée au niveau postsecondaire, jusqu'à concurrence de 12 417 \$.

Pour les victimes âgées de moins de seize ans, la couverture est la même dans le sens que le système d'assurance-automobile du Québec compense le retard d'entrée sur le marché du travail, mais les montants forfaitaires sont accordés ainsi : au niveau primaire il est de 3 386 \$, et pour les autres, secondaire et postsecondaire, ce sont les mêmes montants.

La victime âgée de 64 ans et plus : Lorsqu'à la date de l'accident, une victime est âgée de 64 ans et plus, l'indemnité de remplacement du revenu est réduite de 25 % à compter de la deuxième année, de 50 % à compter de la troisième année et de 75 % à compter de la quatrième. De la même façon, une victime qui avait 64 ans au moment de l'accident et qui reçoit une indemnité de remplacement du revenu voit une réduction dans le même ordre.

Une victime qui est invalide — c'est-à-dire, régulièrement incapable d'exercer tout emploi — ne reçoit aucune indemnité, puisqu'elle n'avait pas de revenus au moment de l'accident.

Les indemnités de décès : Les indemnités de décès sont accordées au conjoint survivant qui a droit de recevoir une indemnité qui varie entre 45 000 \$ et 232 000 \$, selon l'âge du conjoint au moment de l'accident et le revenu du conjoint au moment de l'accident.

Les personnes à charge autre que le conjoint ont droit à des indemnités également. Elles varient de 21 000 \$ à 39 000 \$, selon l'âge des personnes à charge, selon l'âge des enfants.

Quant à une personne qui n'a ni conjoint ni personne à charge, la Société paie aux parents ou aux personnes qui en tiennent lieu une indemnité forfaitaire de 16 900 \$.

Nous versons également une indemnité pour frais funéraires.

La victime a droit à une indemnité pour dommages non pécuniaires qui est établie selon un barème qui représente la perte permanente d'intégrité physique ou psychique et qui est versée jusqu'à un maximum de 127 250 \$. Le barème constitue une liste des atteintes physiques. Suite à une évaluation médicale, un pourcentage est fixé et ce pourcentage est multiplié par le maximum de 127 000 \$.

Nous avons des programmes de réadaptation qui couvrent l'ensemble des besoins selon un plan de réadaptation, sans aucune limite de montant, et nous couvrons également tous les frais engagés par l'accident, quelle que soit leur nature et sans aucune limite.

1130

En conclusion, nous avons, dans un document publié récemment par l'Organisation de coopération et de développement économiques, un commentaire qui souligne que les sommes versées au Québec pour dommages corporels représentent environ 135 % de celles versées avant le Régime. Une partie des indemnités versées sous l'ancien régime servait à acquitter les frais de perception et de ré-

clamation et les frais juridiques. Ainsi, les sommes retournées directement aux assurés sont forcément plus élevées maintenant. Mais les gains réels pour les Québécois vont bien au-delà de ces montants, et ils résident surtout dans l'universalité du Régime, dans la pleine compensation de la perte économique.

Enfin, dit toujours l'OCDE, l'administration du Régime par une régie publique a permis des efforts considérables pour la réadaptation des victimes, réduisant ainsi la période d'inactivité et donc d'indemnisation, de même qu'une implication majeure dans des efforts de prévention routiers qui ne sont certes pas étrangers aux résultats positifs de ces dernières années.

Je vous remercie de votre attention. Je pense que je suis entré dans le temps des partis.

The Chair: Yes, all the time was used up. This was a lot of information you put out in half an hour. As I was listening to the interpreters, receiving this in English, there wasn't one period or comma because of the speed. There was quite a bit of information you got out, so I would appreciate it if you could give a telephone number to the committee members, or Franco could get a telephone number and an address. I think there might be some questions. Maybe they could give you a call and possibly you could get some answers back to them. As I say, there is quite a bit of information here. Does the committee agree with that?

Mr Tilson: Mr Chair, I have a point of order on this whole process. This group of people—and I respect what they've presented to us; it will be very useful to study it, and we may or may not have some questions. The problem I have is that this group of people were invited by the Ministry of Financial Institutions. I suspect the Ministry of Financial Institutions paid for their flight here from Quebec City, probably paid for their accommodation and their food. This ministry is relying on this group as an example of why this system should work for Bill 164.

I have no problem with the government doing that. I have a lot of problems with the fact that there's been no time allowed for us to ask questions of this group about the Quebec system. I can't believe you're saying: "We'll give you a phone call. Give us your phone number and we'll give you a call."

I also can't believe this wouldn't be put in a briefing session just like Mercer was. Mercer is an expert witness; these people are expert witnesses. This system is why the government is proceeding. They're using this as an example. This group normally would have been put forward at the time when Mercer and other experts were. I resent the fact that members of the public of this province have been excluded because the Ministry of Financial Institutions wants to put forward its pap.

Mr Owens: Mr Tilson has insinuated—not only insinuated, but has directly said that the Ministry of Financial Institutions has paid the fare and the freight to have the Société de l'assurance automobile du Québec come here this morning. That is in fact not correct, and Mr Tilson should withdraw his remarks immediately.

Mr Winninger: For shame.

Mr Tilson: Mr Chairman, I don't want to get into a debate on this subject. My point of order is on the whole fact of the procedure.

Mr Owens: You should withdraw your remarks.

Mr Tilson: I'm not withdrawing anything. There's nothing out of order. The Ministry of Financial Institutions invited these people to come. The more appropriate time to come would have been at the briefing session. The briefing session should have expanded. We had inadequate time to question Mr Tully; we had inadequate time to question the Mercer people, and we had no time to question these people.

The Chair: Mr Tilson, as I'm here as Chair, I have no prior knowledge of any—this is just another group appearing before this committee. That's what I'm telling you as the Chair. They had, I told them at the very beginning from 11 until 11:30.

Mr Tilson: Mr Chairman, I respect you. There's no criticism towards you. My criticism is directed towards Mr Owens and the Ministry of Financial Institutions for manipulating the time that's taken away from the members of the public of this province to come and speak their mind on this issue.

Mrs Elinor Caplan (Oriole): Mr Chairman, I think the concern is a legitimate one. People who have watched this very excellent and informative presentation are going to assume that these plans are identical, that the Quebec plan we heard about today and Bill 164 are identical. In fact they are not. They are very, very different, and not having an opportunity to raise those points and these questions has frustrated opposition members of the committee.

We're already hearing interchange and interjections from government members suggesting that in fact the plans that are proposed in Bill 164 and the presentation before us are similar; in fact, identical. That is upsetting and confusing.

I think Mr Tilson makes a good point, that it would have been better for everyone if we could have had this presentation during the initial briefing. Certainly on behalf of my constituents in the riding of Oriole and consumers who are going to pay more because of Bill 164, there are a number of questions I would have liked to have asked.

Having said that, I don't see the parliamentary assistant or the Ministry of Financial Institutions offering an alternative solution, and I don't think "just make a phone call" is a responsible response.

The Chair: I have to say that was my suggestion. That's why I broke in at 25 after. I thought I could say, "Let's stop here so everybody has a chance to ask a question."

Mr Owens was next on a point of privilege.

Mr Owens: Just to continue the correction of the record, the Société is here as a witness, not as an expert witness. For Ms Caplan's benefit and for the benefit of her constituents, let me give you a historical perspective on how this technical briefing was put together. First of all, your representative, as well as the representative of the third party, declined to have a technical briefing; they said it was not necessary to have a technical briefing.

Mr Tilson: That's not true.

Mr Mancini: That's not the issue at all.

Mr Owens: The issue is that Mr Harnick, then along with Mr Kormos, came and requested—

Mrs Caplan: I challenge, Mr Chairman, that this is not a point of privilege.

Interjections.

Mr Owens: You declined the offer of a technical briefing.

The Chair: I'm going to listen to this committee. Myself, I would not extend the time, but if I hear from this committee that they want to extend it, I believe the other group is late coming in. We get at least one question from each caucus?

Mr Mancini: Five minutes from each caucus.

The Chair: Five minutes?

Mr Owens: One question.

The Chair: Okay, five minutes or one question. Do I hear that the committee's in agreement with that?

Mr Owens: What are we agreeing to, Chair?

The Chair: Five minutes per caucus per question. With these people coming from Quebec, I think it's important that—

Mr Mancini: Five minutes, Mr Owens.

Mrs Caplan: That's reasonable.

The Chair: We start off with Ms Caplan, five minutes.

Mrs Caplan: Thank you very much, Mr Chairman.

Mr Owens: Just a second.

The Chair: I didn't hear anybody opposing.

Mrs Caplan: The question I have, and I want to thank the—

Mr Owens: Excuse me, Ms Caplan. The issue—

The Chair: I'm the Chair. I'm sorry, Mr Owens.

Mr Owens: The issue with respect to—

Mr Mancini: Will you stop pretending you're the committee Chair? Mr Ron Hansen is the committee Chair.

Mrs Caplan: This is embarrassing for our guests.

Interjections.

The Chair: Mrs Caplan, five minutes.

Mrs Caplan: I would like to ask if you have had an opportunity to review Bill 164 as compared to Ontario's existing plan, and if you've seen the Mercer report, and could tell us from your experience whether you believe that the premiums will go up for consumers in Ontario as a result of this plan?

Mr Gélinas: When we accepted to come here and give our comments on the Quebec administration of its public insurance policy, it was to describe how it functioned and not to make a comparison with the system that is proposed for Ontario as such.

Mrs Caplan: The point is that, as you understand it, the two plans are very different; they're not identical.

Mr Gélinas: I don't want to get into a discussion where we'll be comparing both systems. Our purpose here today is not to compare both systems. It's strictly to give you an explanation of how our system works. We don't want to go into any other discussion dealing with the proposed system in Ontario, because then we get into a debate that is of a more political nature.

Mrs Caplan: The concern I'm raising is that by your presence here this morning and our frustration in not being able to have a greater discussion with you is the suggestion that in some way the plans have been compared and are found to be identical. I appreciate you clarifying that that is not the purpose, that you were here to describe the Quebec plan, which is different from the Ontario plan, and you're not here to compare them. I'm going to yield to Mr Phillips.

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The Chair: You've got two minutes.

Mr Phillips: Thank you. The thing that's preying on our minds is just what's going to happen to the people of Ontario in terms of cost, because I just happen to have before me the Quebec fiscal situation. Things are desperate there, and they're desperate here.

Based on the most conservative estimate, every single individual out there is going to be paying substantially more in automotive insurance premiums. This is a regressive situation, because regardless of your income, regardless of whether you have a job or not, you need automobile insurance and you have to buy it, and this bill, according to the government estimates, will take the premiums up by at least \$200 million.

Yesterday we saw, as I said before, a government that couldn't afford \$60 million for people who are on welfare in the province because it has no money, but can afford at least \$200 million in incremental premiums. That's why you're helpful for us, because I'm anxious to know whether your premiums this year are being held below inflation—we're assuming, by the way, that the increase is on top of a normal increase—that you've been able to hold yours at below inflation. I realize you haven't had a chance to study in depth this bill, but would your judgement be that this increase will be in the 5% range?

Mr Gélinas: I think Mr Breton can give you an explanation of the financing of our own system in Quebec and how the cost of premium insurance for bodily injury has been treated from 1978 to today, because our financial situation as of now is an extremely good one. Mr Breton will give you an explanation of that.

Mr Martin Breton: Two things we can say about financial issues. I don't know how they apply here, but we know how they apply in Quebec. First of all, for each dollar paid in premium in Quebec with the no-fault system now, victims receive a higher percentage out of every dollar they pay in premium. That's the first thing. The other thing is that the premium for a normal car was \$85 in 1978 and now it's \$85 in 1993, but the \$85 in 1993 includes a 9% tax. So it means it's lower now than it was in 1978.

The Chair: I'll have to go on to Mr Tilson.

Mr Tilson: I gather you haven't had an opportunity to study the bill this committee is looking at; you haven't had a chance to look at this bill.

Mr Gélinas: Personally, no.

Mr Tilson: Can you compare the Quebec legislation to any other jurisdiction either in Canada or the United States?

Mr Gélinas: Quebec, I think, is the only one to have what we call a pure no-fault system as such. I have been present at many conferences of the American Motor Vehicle Association of Administrators and we have spoken many times about how our system works. You have many systems in the States that are a combined system of no-fault and tort, and you also have other no-fault systems in Canada, but they apply as well to material damages and to bodily damages. They also are, in some jurisdictions, only a basic protection, while ours is what you could call a pure no-fault system.

Mr Tilson: I wanted to say, sir, just so you're certain that my outrage is not directed to you, that it's directed towards the government and the Ministry of Financial Institutions. I do appreciate your coming and giving this report. It's too bad that we don't have more time to ask further questions of you, but Mr Harnick has one more question from our party.

Mr Harnick: I note your comment that you describe Quebec as a pure no-fault system. Even in that pure no-fault system, on page 6 of your brief—and I'm referring to the English version—you state, "As for citizens whose loss of income would be more than the maximum coverage offered by our agency, they can seek additional coverage from their private insurer."

I'd like you to know that Ontario has the distinction under Bill 164 of being the only jurisdiction in North America that takes away the right to claim for actual economic loss. I'm interested that even in a pure no-fault system, you have not taken that right away but have given people the option to purchase economic loss insurance. Is that correct?

M. Genest : De fait, nous avons établi un maximum assurable de 46 500 \$ en 1997 et, au-delà de ce maximum assurable, tout individu peut obtenir une protection additionnelle auprès d'un assureur privé. Mais, pour tous les dommages corporels couverts par le Régime d'assurance automobile, le droit à l'indemnité remplace totalement le droit de poursuite devant les tribunaux.

Mr Harnick: I appreciate that, but your brief indicates that an individual can protect himself by purchasing additional insurance. Is that correct?

Mr Gélinas: That is correct.

Mr Harnick: I appreciate that, because Ontario will be the only jurisdiction in North America that is so regressive as to take away that right for people to protect their economic losses. I'm glad you came here today to show that even in a pure no-fault jurisdiction, people still have economic rights. I thank you for being here today.

The Chair: That was perfect, Charles. You're right on.

Mr Harnick: And I'm glad you agree with the content as well, Mr Chair.

The Chair: I appreciate it, Mr Harnick. Mr Johnson.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Thank you very much for being here today. I'd like to continue to pursue this in a somewhat similar vein to Mr Harnick. I understand there is no right to sue for economic loss in Quebec. Is that correct?

Mr Gélinas: That is correct.

Mr Johnson: Are people happy with this? Are the clients, the people who use the system, happy with that?

Mr Gélinas: We have made over the last 14 years certain surveys of persons who have received indemnities from the Société, and our satisfaction in that process is close to 80%, if I remember well. There is general satisfaction there.

Mr Johnson: That's very good to know. Mr Tilson asked a question earlier that I don't know if we had an answer to. I hope you may be able to answer. It's a question with regard to today, and not about insurance per se. Did the Ministry of Financial Institutions pay you to come here today?

Mr Gélinas: From what I know, we haven't even discussed it. We were just invited.

Mr Johnson: Just one further question: Has the provision of unlimited medical and rehabilitation resulted in a large escalation of costs for the Société?

Mr Gélinas: All our rehabilitation process is administered by our vice-president for accident victims. I think that M. Genest can give a complete picture of our rehabilitation procedures and financing of that also.

Mr Johnson: Thank you. I would appreciate that.

M. Genest : Les frais de réadaptation ne comportent pas de limite. Toutefois, le plan de réadaptation est établi par des professionnels qui, en collaboration avec les systèmes sociaux et sanitaires de la région et les organismes communautaires, établissent un plan sur une année, deux années, trois années selon les capacités résiduelles de la personne, sa formation, son expérience et son plan de carrière.

Ce plan de réadaptation est ensuite appliqué avec les ressources du milieu et conduit par les conseillers en réadaptation. Lorsque le plan est complété et que les évaluations sont complétées, la personne se voit déterminer un emploi et réintégrée sur le marché du travail par les soins du programme de réadaptation.

Nous n'avons pas de limite. Nous avons des programmes de réadaptation qui touchent l'aménagement résidentiel, l'aménagement des véhicules, la formation, les réadaptations cognitives, les traumatisés crâniens ou cérébraux... Cet investissement-là, selon nos études, permet un retour sur le marché du travail de l'ordre de 70 % des personnes visées par le programme.

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Nous payons également les frais médicaux occasionnés par les accidents de la route au Fonds consolidé du revenu, qui représente à peu près 80 millions de dollars par année, lesquels sont indexés et sont révisés à tous les trois ans

selon le nombre de journées d'hospitalisation et les frais qui sont engagés pour les services médicaux. Mais les frais ne sont pas payés à la pièce ; ils font partie d'un transfert global effectué au Fonds consolidé du revenu pour le ministère de la Santé.

Nous avons également un système de contrôle des coûts qui, globalement, est assuré par la formation des agents d'indemnisation, un système informatique très performant, et une étude approfondie de chaque dossier de réclamation.

The Chair: I would like to thank you for appearing before this committee, and I thank this committee for the direction it has given the Chair so it didn't put the Chair in a bad spot in having to make the decision; that you had an opportunity and the committee was able to ask questions.

The clerk has said to me that you had applied to come before this committee, so that was correct. I'm glad to welcome you to Ontario and I'm glad that you were able to be here. I hope we have the same reception and that you can bend the rules in Quebec for us if we ever come up. Thank you for appearing.

ONTARIO TEACHERS INSURANCE PLAN

The Chair: The next group we've got is the Ontario Teachers Insurance Plan. Could you come forward, please. I'm sorry for the slight delay, but sometimes everything isn't perfect in this process.

You have one half-hour; in that half-hour, as you can see, it would help if you could leave some time at the end for the members of the committee to ask questions. I don't want to go through the same exercise again for each group that comes forward. If you don't mind identifying yourself for the purposes of Hansard and the people of Ontario, you may begin.

Mr François Tisi: Thank you kindly. Our presentation is approximately 12 minutes, so there should be ample time for questions.

I'm François Tisi. I'm the chief executive officer of the Ontario Teachers Insurance Plan, and with me I have Randy McGlynn, who is the executive director of marketing and insurance.

The Ontario Teachers Insurance Plan, or Régime d'assurance des enseignantes et des enseignants de l'Ontario, is a non-profit trust established in 1977 by the five teacher affiliates of the Ontario Teachers' Federation. The board of trustees of OTIP is composed of two teachers appointed by each of the five teacher affiliates of the Ontario Teachers' Federation: L'Association des enseignantes et des enseignants franco-ontariens, the Federation of Women Teachers' Associations of Ontario, the Ontario English Catholic Teachers' Association, the Ontario Public School Teachers' Federation and the Ontario Secondary School Teachers' Federation.

In 1991, OTIP managed more than \$50 million on behalf of its members, while providing long-term disability insurance to approximately 70,000 employees of public and separate school boards across the province.

OTIP wishes to acknowledge the careful and thorough approach taken in the development of amendments to Bill 164.

We are pleased that the Minister of Financial Institutions is conducting public hearings and appreciate the opportunity to present to the standing committee on finance and economic affairs observations drawn from our experience in the automobile insurance and long-term disability fields.

In order to meet its objectives of product and service excellence, OTIP requires an environment that encourages communication, cooperation and partnership. By allowing us to present our concerns to the standing committee, we have begun this process. We ask, however, that you consider our concerns in the deliberation of new guidelines and policies affecting our members.

The main objective of OTIP from its inception has been to provide the best available insurance benefits at competitive rates for active and retired educational employees. We believe that with your help we can achieve this objective.

New risk classification system: OTIP is concerned that the new "uniform, non-discriminatory risk classification system" may mean substantial, unfair and prohibitive rate increases for young women and senior citizens. We are encouraged by the assurances regarding proposed section 413 that "the new plan will be phased in over several years through a process which minimizes rate dislocation for consumers." We note in this regard that the Lieutenant Governor in Council will prescribe by regulation a risk classification system and, furthermore, that there will be a regulation to limit rate changes. OTIP respectfully recommends that every consideration be given to limiting the rate increases on young women and senior citizen drivers so that the increases are introduced on a gradual basis.

Accident benefit reforms: In its submission to the standing committee on general government on Bill 68 in 1990, OTIP argued that auto insurers, not private disability insurers, should bear the costs of injury, long-term care and rehabilitation of persons injured through auto accidents. This recommendation was not placed in the current Insurance Act. We note that the position was considered in the amendment of the current legislation, but was later rejected. The Road Ahead states:

"This package of accident benefits was designed after careful balancing of two key objectives: adequate coverage and affordable auto insurance. Difficult tradeoffs were involved. For example, consideration was given to making auto insurance, rather than private disability plans, the primary payer of compensation for people involved in auto accidents. The large premium increases associated with such change made that proposal unworkable. The interface between auto insurance and other disability systems will be the subject of further review."

We agree that our proposal may increase premium rates, but it will do so fairly and not place an unfair burden on those who have private disability insurance.

OTIP recommends that auto insurance be the primary payer where disability is directly related to an automobile accident.

OTIP provides disability insurance to 70,000 educational employees through benefit packages negotiated by these employees and their school board employers. The

negotiated benefit package is included in the collective agreement. The disability insurance plan incorporates, in various ways, the use of the individual's accumulated sick leave credits. Frequently, if the sick leave credits remain unused at the point of the employee's retirement, they are converted to gratuity and are part of the employee's retirement income.

OTIP believes that it is unfair to the employee who, while endeavouring to keep well, is injured in an auto accident and therefore required to use up these credits and to use his or her disability insurance. OTIP contends that the disability insurance plans should not be used to cover automobile accident injuries. Requiring private disability insurance plans to be the primary payer places the insured in the position of subsidizing lower rates in the entire auto insurance industry.

Employees who have prudently and wisely protected themselves at their own expense and discretion against unforeseen illness or injury should not be required to subsidize lower auto insurance rates for those who are not covered by private disability insurance. It requires those who do to pay twice.

OTIP recommends that if auto insurance is not the primary payer, rate adjustments be permitted for those who are covered by private disability insurance plans.

One-week waiting period: The current legislation requires an injured person to wait one week before benefits begin. As the loss of wage begins on the day of the accident, it is apparent that anxiety, as well as suffering, can only be prolonged by any delay in benefits. The sense of security that benefits provide the victim will most certainly aid in a speedy recovery. Benefits must not be seen as merely financial compensation but as an integral component of one's rehabilitation. The sooner benefits are delivered, the sooner rehabilitation can be achieved.

OTIP recommends that the one-week waiting period before benefits begin be eliminated.

Access to courts: OTIP supports granting innocent victims the right to sue for damages related to non-economic losses, that is, pain and suffering. We agree that those who suffer loss of enjoyment of life or life expectancy, through no fault of their own, ought to be able to establish in court that they were not at fault and that they are entitled to compensation. We are concerned that the requirement that an award of the court be subject to a mandatory deductible of \$15,000 will, in our view, create an unnecessary floor of \$15,000.

OTIP recommends that the award of the court, in cases of pain and suffering, not be influenced by the pre-set deductible.

Rehabilitation benefits: OTIP has earned an invaluable reputation not only as an effective and efficient long-term disability insurer but also as a provider of prudent and comprehensive rehabilitation services. These services have helped a great many educational employees, disabled through illness or accident, to return to full or partial employment in relatively short time. We are concerned about two aspects of the rehabilitation provisions proposed in Bill 164.

First, the tabled legislation proposes the repeal of subsection 268(1) and proposes in subsection (1.3) the requirement that all insurers "pay for reasonable measures to (a) reduce or eliminate the effects resulting from an injury; and (b) facilitate an injured person's reintegration into his or her family, the labour market and the rest of society."

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OTIP supports the inclusion of this provision, but is concerned that there is no clear definition that constitutes "reasonable measures." While it is difficult to define "reasonable," it is possible to judge in a certain situation, by weighing the severity of the injury and the rehabilitation steps taken, whether the steps taken to rehabilitate the injured person have been reasonable.

We are of the view that some sort of appeal to an independent arbitrator or arbitration panel for review of the measures would be fair to the injured person. In the absence of such an appeal process, it is our fear that unnecessary litigation under section 267.1 will ensue.

OTIP recommends that an independent arbitration process be established to review the steps required of insurers as set out in the proposed subsection 268(1).

Our second concern under rehabilitation benefits arises from the fact that OTIP is required to provide its services to the injured person prior to the auto insurer being involved. Considering the fragility of rehabilitative efforts on the part of the insurer and the insured, it would appear reasonable and beneficial to the injured person that there be an integration framework governing the rehabilitation measures taken by OTIP and later by the auto insurer.

OTIP recommends that the regulation include guidelines governing the integration of the private disability insurer's rehabilitation program with that of the auto insurer.

Therefore, the OTIP recommendations are as follows:

- That rate increases, especially as they apply to young women and seniors, be phased in over a period of several years;

- That auto insurance be the primary payer where disability is directly related to an automobile accident;

- That if auto insurance is not the primary payer, rate adjustments be permitted for those who are covered by private disability insurance plans;

- That the one-week waiting period before benefits begin be eliminated;

- That the award of the court, in cases of pain and suffering, not be influenced by the pre-set deductible;

- That an independent arbitration process be established to review the steps required of insurers as set out in the proposed subsection 268(1);

- That the regulation include guidelines governing the integration of the private disability insurer's rehabilitation program with that of the auto insurer.

On behalf of OTIP, I would like to thank the standing committee for selecting us to make this presentation.

The Chair: Thank you. Mr Tilson.

Mr Tilson: Thank you for coming and giving us your presentation. I know our party will be studying many of

your remarks for possible suggestions and amendments to this bill, when that time comes.

I know your interest is in teachers, but the other issue I'd like you to direct your thoughts to is students and infants. I know your sole interest is protecting teachers, but teachers do get involved with students. Students and infants don't have any income, or they have a very nominal income, and I don't believe they can purchase any disability insurance, the disability insurance you're speaking of, for protection of loss of income: economic loss. Any arbitrary rule, I hope you would agree, would be unfair to infants, would be unfair to students. Arbitrary rules simply can't properly assess the potential of those students or of those infants.

The other question is, what about students who are injured but can eventually participate in the labour force, but with a diminished income; they can't do many things? Who's going to decide what their loss is? Some arbitrary committee sitting somewhere, I suppose. Will the private insurers make those decisions?

I know you've directed your comments towards teachers, but teachers make their money from students, and I'd like to hear your thoughts about how students can be protected from your perspective.

Mr Tisi: On the first part, there's no doubt that we addressed our presentation based on the people we represent, who are the educational community. More specifically, the problem we see with regard to the rehabilitation—because we have rehabilitation personnel working for us—and to the long-term disability is the possibility of a conflict unless there is some integration. One agency or an insurer starts off with a rehabilitative program, the long-term disability comes in, here's another set of professionals who will be dealing—there should be some integration for the best of the injured person, and it's the integration portion that we referred to specifically.

With regard to the students, there's no question, Mr Tilson, that we did not address that portion in our presentation. There's probably some validity to what you're bringing forward.

Mr Tilson: Thank you. Mr Harnick has a question.

Mr Harnick: This Bill 164 takes away a person's right to claim for any economic loss beyond what their auto insurance blended with their private disability coverage might offer. In other words, someone can, at the end of the day, suffer loss beyond what all of their insurance benefits would pay them. Do you agree that after you've paid a premium for your disability benefits and a premium for your auto insurance benefits, you should still have the right to claim for any economic loss you might still be sustaining?

Mr Tisi: The one point I'd like to reiterate is that we insure over 70,000 educators for long-term disability and, according to the proposed legislation, once these individuals are eligible for long-term disability, the long-term disability becomes the primary payer. I know that the vast majority of educational employees in this province are insured for long-term disability. Our point with regard to that aspect was simply that it's not fair to them, because they are protected and they are paying the premium out of their

own pockets because of the taxability of long-term disability. It's not fair that because they protect themselves then their long-term disability becomes the primary payer.

We're simply saying that the auto insurance should be the primary payer. If the long-term disability stays as proposed, there should be a reduction in their rate to compensate people who are adequately protected because of long-term disability.

Mr Harnick: What I'm driving at, though, is that there still may be a shortfall. If they're the innocent person involved in an accident, shouldn't they have the right to claim any economic loss they suffer, through no fault of their own, that has diminished their earnings from what they would be getting as a teacher if they were working full-time? It's a simple proposition: the right to claim economic loss.

Mr Randy McGlynn: It is an insurable risk, and the consumer does have the right to buy that coverage in the open marketplace.

Mr Harnick: No, they don't; not under this legislation. That right has been taken away from them.

Mr McGlynn: Not under 164, but to cover all disabilities—

Mr Harnick: Yes, but that only pays you your benefit on the day of the accident, depending on what you're making that day. What if you have a future ahead of you and you're going to make more 10 or 15 or 20 years down the road, when you go from being a teacher to a vice-principal or a vice-principal to a principal?

The Chair: Mr Harnick, I've got to carry on. Mr Dadamo.

Mr George Dadamo (Windsor-Sandwich): Thank you for your presentation. I wanted to direct your attention to page 1. You state, "In 1991 OTIP managed more than \$50 million on behalf of its members while providing long-term disability insurance to approximately 70,000 employees" I know you're always on the search for good plans for the employees throughout the province of Ontario. You acquire many insurance coverages from other sources. Does Bill 164 enhance, at the end of the day, or are there some pitfalls? I need to know that.

1210

Mr McGlynn: By and large, it enhances the coverage that the membership we represent would be protected for. We have some concerns, as we expressed, in terms of allocation of the premiums. We think it's double-dipping to charge for long-term disability then pay for the same benefit under the auto insurance and take it away through a contract provision. That was our concern in that area. Certainly the enhancements, including the adjustment for inflationary increases and the lifting of caps, together with the extra work in the area of rehabilitation that we understand has begun, will be of benefit to those people who are, unfortunately, injured in accidents.

Mr Dadamo: You also recommend that auto insurance be the primary payer where disability is directly related to an automobile accident. Can you explain what you mean by that?

Mr McGlynn: It goes back to my comment on double-dipping. You're paying for both long-term disability or an income replacement program, as well as automobile insurance; in both cases you're buying disability protection. Our concern is that you either allow for a discount in the long-term disability premiums by making the auto insurance the primary payer so the premium reduces for the long-term disability, or else you reduce the auto insurance premium to recognize the fact that somebody has gone out and looked after that through an all-encompassing program, which is what I was addressing with Mr Harnick.

Mr Tisi: On this issue, one important fact most people are probably aware of is that if the long-term disability premiums are paid by the employee, the benefit is non-taxable. Therefore, in Ontario, the majority of educational employees pay their own premium for long-term disability. Long-term disability is not a benefit that is cheap. It's not uncommon to see premiums of 1% of salary or more. So they're already paying for their own long-term disability benefit and they're paying for their auto insurance. On the other hand, because they're well protected, if they become disabled as a result of an auto accident, then their long-term disability kicks in. Obviously, the rates for long-term disability have a relationship to experience. That's what Randy was coming at with regard to the double-dipping.

Mr Mancini: I have one very short question and then I'm going to turn the floor over to my colleague. It deals with a question you think you may have already answered; that is, whether this bill is an enhancement for your members. We've heard testimony by other witnesses before the committee that this legislation will raise rates. The government has accepted that fact. Their own consultants say rates will go up by 4.5% minimum, worth \$200 million if you extrapolate that across the province. Yesterday, we heard Mel Swart, a former member of the Legislature, say that while rates will be going up, benefits will be reduced by 15%.

Are your members the only ones who are not going to be affected by that reduction? Are you in a special category that won't be affected? How does that work? How is the pie going to shrink and you not be affected? That's the question.

Mr McGlynn: You have two points. One, you're looking at the premium that is going to be charged. When both actuaries from opposite sides determine that there's going to be a rate increase, I don't think there's any doubt that there's going to be a rate increase. I believe there is value for the additional premium, whatever it is. I believe it's some place between both, because assumptions are really the basis for what actuaries develop. They've both taken positions, and likely someplace between is the truth. When you weigh where that number is against the additional benefits we see outlined in the legislation, we think it represents value. We have to speak for the members we represent, but I would say that value likely extends beyond them as well.

Mr Mancini: I have more questions, but I'd like to turn it over to my colleague.

Mr Phillips: I appreciate the comments, because each of your members, I gather, will face a premium increase of

around \$100 or thereabouts. That's midway between the two numbers we've seen. I think you're aware that the government said it will give 0% to the educational system this year and 0% next year; there's no more money going out to pay teachers' salaries. But your members say they're prepared, each of them, to fund this to the tune of at least \$100 just for these benefits, plus any additional charges you would have. But you've made that determination, that it's worth \$100. I appreciate that comment, because I deal often with teachers—

Mr Klopp: He didn't say that.

Mr Phillips: He did say that. My question really is around disability, where you've given us an interesting suggestion. I want to follow it up. As I understand it, you're saying that if one of the teachers is in an accident, you want this bill to cover long-term loss of income, not your current disability insurance. You'd like it to be covered under this bill.

Mr McGlynn: We don't care which way it goes. You either cover it under the bill or you give a premium reduction to acknowledge that—

Mr Phillips: Let me finish the question, just in case I don't get it. Sometimes the Chair cuts me off.

The Chair: You've got one minute.

Mr Phillips: Imagine for a moment that they are covered by auto insurance and not long-term disability. Imagine for a moment that we amended this to say that. Have you examined what that would mean in terms of teacher income for long-term disability? Would they be in any way impacted in terms of what they would get over the duration of the disability?

Mr Tisi: First of all, let's look at the first part of it. I'd also like to make some comments on the first part of what you said. Let's look at the question as such. We are saying that we represent a group of employees where probably 95%-plus are insured for long-term disability. That's very important, because if we were representing a group of employees who did not have long-term disability, then it wouldn't be that much of a concern. If they get into an accident and if they are disabled because of the auto accident, then the plan will pay.

But because we represent a group of employees where most of them have long-term disability coverage, then as soon as they are eligible for long-term disability, the plan they pay for will trigger. That's what we're saying.

If you look our proposal, there are two sections. The first one says we believe that the auto insurance should be the primary payer. We could have stayed and left it right at that. We realize there could be some substantial costs, if that's the route the government decides to go.

On the other hand, there's a second recommendation right after it that says that if it is not the primary payer as these people have a private plan, they should get a reduction in their auto rates. Otherwise, they are supplementing—

Mr Phillips: My question, though, was that if they were the primary payer, does it impact the settlement for your members?

Mr Tisi: If they were the primary payer, then the LTD, if it did kick in, would be an offset. So the LTD would pay whatever the contract says, less—

Mr Phillips: I see. So you'd want a supplement on top of that.

Mr Tisi: They're paying for it. We don't want a supplement. We're just saying that they're not going to get any more. Most of our people—I think as an example you would look at a 60% benefit, the majority. There's higher, but for most of them, the above-average long-term disability coverage is about 60%. All we're saying is that whatever that 60% is, they wouldn't get any more, but as it's an auto accident, automobile should be the primary payer. If it doesn't equal their 60%, then the insurer can top up to the 60%, and that would affect the insurance rate they are paying.

The Chair: I'm sorry, Mr Phillips. We're going to have to cut it off.

Mr Phillips: That's too bad. They're good witnesses.

The Chair: I know it's been a really good conversation back and forth.

Mr Tisi: I'd just like to make, if you'll allow me, one comment: First of all, we realize that the rates will probably go up. As Randy indicated, we have two firms of actuaries who have said they would be going up. We believe it'll be in between what has been brought forward. I don't think we mentioned that the 70,000 members we represent are willing to pay \$100 more; if we did, we would be lying. On the other hand, if you look at the insurance industry as such, we are also believers that in a lot of cases there could be a reduction in rates, and that could compensate for some of the increase of what we're going to see with this new bill.

The Chair: Thanks a lot, gentlemen, for coming before this committee. I'm sorry there was a slight delay.

I've got another announcement to make: This committee, when it recesses now, will recess until 2:30. A group has cancelled and we weren't able to get another group in, so we'll be back here sharp at 2:30.

Mr Mancini: Mr Chairman, I have a request: Can we get the Ontario Insurance Commission to come in at 2 o'clock in place of the group that can't come in? I have some questions for them. Can I make a motion?

The Chair: It's a little bit short notice.

Mr Mancini: We can try. I didn't say we were going to force them; I said could we try. I'd like to make a motion that we ask the clerk—

The Chair: With the other subcommittee members, I'll leave it with them.

Mr Mancini: In front of the whole committee, I'd like to make a motion. On a point of order, I'd like to make a motion that the clerk respectfully request senior officials of the Ontario Insurance Commission to come in for a half-hour of questioning at 2 pm so that we don't lose that time, if it is possible.

Mr Owens: I can't support that motion.

Mr Mancini: Why not? All we want is information. Why can we not support the motion? I'd like to know from the parliamentary assistant.

The Chair: Let me just get the feeling of the rest. You see, I changed my schedule for an appointment, with the understanding that we wouldn't come back until 2:30. I will not be sitting in the chair between 2 and 2:30, I can tell you that right now. Maybe some other members also—

Mr Mancini: I appreciate that. Mr Dadamo has done a nice job substituting for you.

The Chair: Who's in favour?

Mr Mancini: I'd like a recorded vote, Mr Chairman.

The Chair: Okay. We get all these recorded votes.

Ayes

Dadamo, Mancini, Phillips, Tilson.

The Chair: That's four. Who's opposed? Oh, gee. Well, you know how I'm going to vote even beforehand.

Mr Mancini: No I don't.

The Chair: Who's opposed?

Nays

Haeck, Klopp, Owens, Ward.

The Chair: It's a tie? I'm going to break the tie.

Mr Phillips: I know that, but how?

The Chair: I'm voting opposed.

Mr Mancini: You're voting opposed? Mr Chair, with all due respect, you're breaking tradition. Chairpeople vote to carry motions, not to prevent motions from carrying.

The Chair: Well, I won't be here between 2 and 2:30. This committee is recessed until 2:30.

The committee recessed at 1223.

AFTERNOON SITTING

The committee resumed at 1433.

CANADIAN PARAPLEGIC
ASSOCIATION ONTARIO

The Chair: Good afternoon. This is the standing committee on finance and economic affairs. This is Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters. This is day 3 in the afternoon and we're starting at 2:30 with the Canadian—I'm tongue-tied; I'm sorry. Gentlemen, would you mind introducing yourselves for the purposes of Hansard and the people of Ontario.

Mr David Byers: Yes, thank you, Mr Chairman. My name is David Byers and I'm the executive director of the Canadian Paraplegic Association Ontario, and may I introduce Mr Peter Downs, who is a partner in the law firm of Lerner and Associates and is here as a volunteer. He will be presenting our submission to you, sir.

The Chair: Okay, fine. We have a half-hour. If you could start with your presentation and leave some time at the end for questions from the committee members, you may begin.

Mr Byers: Fine, thank you, Mr Chairman.

Perhaps it would be useful just for me to very briefly outline the services that our organization provides. We are in the rehabilitation service business and the bulk of our staff consists of professionally trained rehabilitation counsellors who typically have degrees in rehabilitation or social work.

We provide counselling services to paraplegics and quadriplegics, everything from financial and housing advice to vocational guidance, and attempt ultimately to find employment for our clients. We have an active case load of around 400, but a total case load of around 1,800 clients. They are typically evenly split between paraplegics and quadriplegics.

Now I turn the submission over to Mr Peter Downs.

Mr Peter Downs: Thank you, David. Before I discuss the views of the Canadian Paraplegic Association Ontario with respect to Bill 164, I'd like to set where the population that is served by the Canadian Paraplegic Association fits into the current system.

As you know, we have what I will term a threshold no-fault system now. The threshold no-fault system actually is a system that probably leaves the population served by the paraplegic association better off than the pre-existing tort system. Paraplegic injured victims would meet the threshold, would be able to sue. In addition to that, they would obviously have the enhanced no-fault benefits under the OMPP.

Bill 164 does not help at all the population served by the CPA. They get nothing from Bill 164 and they lose significantly with respect to Bill 164. The less seriously injured people regain the right to sue for non-economic loss, subject to the \$15,000 deductible. The spinal-injured population maintain their right to sue for non-economic

loss, pain and suffering. But they're subject to the same \$15,000 deductible.

In Canada today, the courts have indicated that the maximum allowed for non-pecuniary general damages, damages for pain and suffering, is approximately \$240,000. The limit was set by the Supreme Court of Canada in 1978. Indexed, it's now about \$240,000. Under this proposed legislation the amount recoverable would be \$225,000. There's a \$15,000 deduction of the non-pecuniary general damages for the most seriously injured of our population.

That is not the most serious concern, however, for the CPA. The most serious concern for the CPA is in regard to the aspect of economic loss. Economic loss, broadly speaking, can be divided into two components: the loss of income and what I will term future care costs. The loss of income is of concern to the CPA, as it's a concern, I believe, shared by a number of groups representing a population which I will term the less seriously injured population. The focus of my talk or discussion today won't be on that aspect of it but rather on the other aspect of economic loss, which is the future care cost component.

Specifically, I want to address the issue of attendant care cost. As you are aware, the proposed statutory benefits schedule sets a limit for attendant care costs at \$3,000 per month. What that means for the spinal-cord-injured population is that many of them will be institutionalized, because they cannot maintain a life in their own home on their own with attendant care of \$3,000 per month. Quadriplegics very often require 24-hour attendant care.

Under the system we have now, the courts have long recognized that. The courts have recognized that the seriously injured, the spinal-cord-injured population, are entitled to be put, as far as money can do so, in the position they had prior to their accident, and that means giving them a quality of life that can best be provided in their own home and not in an institution.

I have attached to my material a schedule—it's at tab 2 of the material—which gives, hopefully, the committee members an indication of the amount the courts are assessing for the costs of future care or attendant care. If you look at appendix II, again at tab 2 of the materials, you will see a section entitled "Future Care Costs (Ongoing)." This is a case I was involved in. It happens to be an individual who suffered an injury resulting in C4-5 complete quadriplegia: no sensation, no movement from the neck down.

1440

The court awarded 24-hour attendant care and assessed the cost of that attendant care at approximately \$116,000 per year. Under Bill 164, that individual would receive \$36,000 per year. The court determined that \$116,000 per year was what was required for this individual to live safely in his own home. Under Bill 164, this individual would have to be confined to an institution because \$36,000 a year would not be sufficient to allow him to remain safely in his own home.

The present value of the future care assessed under that case, which was under the tort system, was \$3.176 million, whereas the present value of the attendant care provided for under Bill 164—this is for a 24-year life expectancy—would only be \$652,000, a significant shortfall.

The point is that \$36,000 a year will not provide adequate care for many of the spinal-cord-injured in this province and will require them to be institutionalized. Putting these individuals in an institution does not serve these individuals, obviously, and I understand it certainly wouldn't be in keeping with the goal of the Ontario government to reduce the degree of dependence on institutions.

The other feature of the fact that these individuals will be put in institutions rather than be able to live at home is that many of the other benefits that are provided for notionally under Bill 164, such as rehabilitation, equipment benefits, housing conversions and things like that, will in fact only be notional benefits, because what will happen is that the statutory schedule, we fear, will be interpreted by the insurance companies in such a way that these individuals will not be found to be reasonably requiring these extra benefits because they'll be in institutions. There'll be no need for providing benefits for home conversion, because the person cannot live in his own home because he won't have the required attendant care.

You'll see in appendix 2 where we have indicated the notional benefits under Bill 164 for each of these categories of ongoing care, and then there's a column "Amount Payable." You'll notice, for instance, under the tort system in this case that's presented here that the court assessed annual transportation costs of \$4,500. Sure, Bill 164 gives "notionally available" \$4,500, but one wonders, if the person is relegated to an institution, whether in fact they will be able to satisfy the insurers and the parties who decide these issues that it's reasonably required, since the person is in an institution.

Similarly with equipment, supplies and medical: Being in an institution, OHIP will cover those expenses and there won't be the necessity to purchase those necessities; vocational rehabilitation, similarly.

We can go on with respect to the other items on page 2 of the appendix. Converting accommodations: Again, notionally these are all available, but practically speaking they won't be paid because the spinal-cord-injured victim will not have the opportunity to safely live on his own with attendant care at a limit of \$3,000 per month.

There are many recommendations that are made in this paper, but the most important recommendation that the CPA brings forth in its submissions is the recommendation that the limit of \$3,000 per month be increased or the limit not be there. There's no limit on the rehab expenses, I understand, there's no limit on the medical expenses and there should be no limit on the attendant care. If it can be reasonably demonstrated that a person requires \$6,000 or \$7,000 a month of attendant care, then that person should have the opportunity to have that attendant care so he or she can live in his or her own environment.

The paper addresses other issues. I have alluded to the concerns about the prospect that full economic loss will not be recovered again. That will be addressed by other

groups, and those are in my paper, but for the purposes of these submissions orally now I think I want to stress very clearly that the attendant care limit of \$3,000 is not just, and in any caring and civilized society, I know of no jurisdiction where they have automobile insurance that provides for this type of limit for the most seriously injured of our population.

This is the point: We are increasing the rights by Bill 164 to the less seriously injured of our population, but we are taking away the rights to compensation for the most seriously injured of our population, and I think that is important to realize.

Those are all the comments I wish to make at this time.

The Chair: Okay, fine. We'll go to questions.

Mr Owens: I'd like to begin by thanking you for your presentation. Your organization represents, as you indicate, some of the most catastrophically injured in the province.

Just around some of your comments with respect to the caps, you did acknowledge that the cap that had been in place under OMPP has been lifted under the \$500,000 long-term care. In terms of the \$3,000-a-month cap that is currently in place, you're aware that there is a task force that has been announced by the minister to take a look at setting standards of care around attendant care, that currently there are no standards in place for attendant care.

My question to you is, in terms of the ability to sue under the OMPP, if one met the threshold, but the lack of immediacy in benefits, do you not think it's more important for a person to get immediate benefits and start on rehabilitation immediately after an accident or as soon as is physically possible for that individual?

Mr Downs: I think that's true, and that's why the current threshold system, as I stated in my opening remarks, was probably better than the previous tort system for the most seriously injured victims, but Bill 164 is a step backwards for the spinal-cord-injured population. I agree that it's important to provide these immediate benefits, especially to those people who make up our population, but you can do that in the present system, and why put this cap of \$3,000 a month, which is contemplated in Bill 164, for attendant care?

Mr Owens: Just for the purposes of clarification, the cap, the \$3,000 a month, was put on by the former government. We in fact have set up a task force to review that cap in terms of setting standards of care, which are currently not available within the industry. I think, if you chat with some of the folks from the insurance industry and the advocacy groups, there's agreement that standards of care need to be set in order to deliver the most efficacious care to your clients.

Mr Downs: All I can respond to that is that a judge recently, in this case that is presented here, carefully heard the evidence of both the plaintiff and the defence, who were obviously trying to show that this person could be provided for adequately at less cost, considered all that, and in his very comprehensive judgement of 212 pages, obviously not just on the attendant care issue, came to the conclusion that he required attendant care of approximately \$116,000 per year. So there's \$116,000 per year

and Bill 164 is providing for \$36,000 per year, a significant shortfall.

The Chair: Mr Winninger, a short question.

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Mr Winninger: It's a pleasure to hear from you again, Peter. We've had dealings in the past.

I think we need a little more empirical evidence on this question of rehabilitation and care. I know you've presented one scenario where the judge awarded \$116,000. I would question how many cases fall into that category, what average monthly amount of care is required and how the amount required to care for accident victims varies, depending on whether the care giver at home has employment activities or may be of a suitable age to provide care or wants to provide 24-hour care to a spouse or a family member. Surely there are a lot of variables that impact on the cost per month of a case.

Mr Downs: Mr Byers probably has some information on the numbers of population the CPA serves who are quadriplegic. My experience is that by and large almost all, if not all, quadriplegics require if not 24-hour care then a substantial amount of care during the day. That may not be so with paraplegics.

As far as asking the spouse or the individual who happens to be living with the injured victim to provide care, that issue came up in a case I was involved in. The evidence of psychologists and others was that this changes the role of that individual from a spouse, a son or a daughter to a care giver, and it deteriorates that relationship significantly. They're not meant to be care givers; they're meant to be spouses or sons or daughters, and it's very draining on that individual to provide that care.

Mr Winninger: Perhaps you heard me wrong. I wasn't suggesting it should be forced on individuals, but where they volunteer and really want to do it, as opposed to inviting a stranger into the home to provide care, the cost would be lower.

Mr Downs: I think the number of people who would want to get up at 6 o'clock in the morning, administer a bowel routine to a quadriplegic, carry him into the shower and that type of thing would be few and far between. It's a very onerous task. I think if you asked those people who live with these individuals, they would like to maintain their relationship as any relationship in a family that is all able-bodied, and they can't do that in a situation where they're providing the care.

With respect to the figures, perhaps Mr Byers has some information on the number of quadriplegics versus paraplegics.

Mr Byers: I wouldn't argue. There is a variety of course, but the incidence of marriage breakdown, for example, following these accidents is extraordinarily high. Often in today's society, both partners in the situation live independent lives in terms of business and lifestyle, so our organization prefers not to rely on the family. Attendant care is something that's very, very important and that's the thrust. It's a well-known fact that motor vehicle accidents constitute the largest single denominator for paraplegia and quadriplegia.

Mr Mancini: For the record, let me say I was quite surprised by Mr Winninger's question, where he seemed to intimate that maybe the spouses of the victims should take on the role of government agencies, insurance companies or professional care givers. I've never heard that before from the NDP. That's something new. We hear something new every day here.

We also hear there are some hearings that are going to take place after these hearings that are going to solve all the questions and all the problems people have brought forward. I want to say for the record that we've heard that tune and that song before on other pieces of legislation. That's just a way for the government to slough off the tough questions and bury them under the carpet. I didn't think there was any more room under the carpet. They seem to be able to sweep something underneath that carpet every day, whether or not there's room. It's a pretty lumpy carpet indeed.

Let me say that I am aware of the work done by the Canadian Paraplegic Association and I'm impressed by your organization. I've had the opportunity to work with your organization in the past and have the highest regard for you as an organization, for what you do and how you do it.

I knew this legislation was going to be bad for paraplegics and quadriplegics, but I'm stunned by how bad you think it's going to be for these people.

I've been saying all along in these hearings that the right to sue for economic loss, which is being taken away under Bill 164 by the NDP government, is going to be harmful to most people. We've been trying to give examples during these committee hearings, and the retort from government members and some of the witnesses that we've had is: "That's all abstract. We're talking abstract and these things don't really happen."

You've given us a case that is not abstract. I was wondering, for the record, if you have any other specific cases you could talk about in regard to the loss of benefits that people will receive because of the passage of Bill 164. It is going to pass; they have the majority, they have all the numbers. I'd like some specific cases. If you cannot give us the specific cases today, I would respectfully request that when you have time you send them to the committee in care of the clerk and the Chair so that all the members could have those cases.

I would also like to know, while we're getting to the point of benefits and costs, whether you're aware of the fact that Bill 164 is going to drive up the cost of premiums for everybody, even paraplegics who drive, by a minimum of 4.5%, or almost \$200 million a year. That's the government estimate. That's the low side. The high side is 22%, I believe.

We had a group of pretty professional people here today representing the teachers. They told us that they thought it would be somewhere in between, maybe 15%. So we're talking about the possibility of a \$400-million to \$450-million rate increase because of Bill 164 if we hit the medium range of rate hikes. I was wondering, first of all, if you could accede to my request and if you'd give me your

opinions on whether or not Bill 164 is worth that rate hike that you and I and everybody else is going to feel.

Mr Downs: In respect to the first request, the cases, I hesitate to bring up any more cases without speaking to the individuals involved, but I'd be glad to accede to the request to provide more information to the clerk.

Mr Mancini: That's fine.

Mr Downs: With respect to the second issue, even if the premiums were not to increase, the position of the CPA is that this is a very regressive piece of legislation for the most seriously injured of our population. This takes away from them significantly.

I suspect that most of the presentations to this committee have dealt with economic loss in the sense of loss of income, but for the spinal-cord-injured, a bigger factor is economic loss in the sense of care costs. I can't stress enough that this \$3,000 a month will put these people in institutions and will deteriorate significantly their quality of life. That's the point. Regardless of what it does to the premiums, this is a significant problem with this piece of legislation for the population we represent.

Mr Harnick: I had an interesting exchange the other day with Mr Endicott, who's the deputy minister who was in charge of really writing this generous piece of legislation. He disappeared from the room after we had our exchange, but the long and short of the exchange was to provide him with an example that if a young person, student age, was rendered a paraplegic, a quadriplegic or brain-damaged, under this piece of legislation at the age of 30 years that individual whose whole future was snuffed out, that innocent victim, would be relegated to earning \$391 a week.

I'm accepting Mr Endicott's figure because he had some question about the Advocates' Society figure of \$388 a week. When he calculated it for us on the record, it worked out to \$391 a week. I think that was where he felt he was being pretty generous. That person is going to make less than \$20,000 a year, indexed. "Indexed" means that he keeps up with inflation, but he's still below the poverty line.

What my friends across the way don't seem to understand is that the loss of economic rights, the loss of claiming for your actual economic loss is significant. They don't seem to understand that Ontario would be the unique jurisdiction in North America, the only place that's taken economic rights away so that people can't claim their actual out-of-pocket economic losses.

What's very important to me is to have you explain to my friends across the way how significant it is that a person be able to claim his actual economic loss so that he's not relegated to Mr Endicott's \$20,000 a year indexed for the rest of his life.

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Mr Downs: In the example I provided, the Mortimer decision, initially I put in the schedule the award for his future loss of income because I think it pointed out the inequity in Bill 164. Then on second thought I decided to leave it out because I wanted to focus on this one aspect of Bill 164, the attendant care, but since you've brought up

this issue I'll address this concern in the context of this particular case.

This individual was injured in his second year of college, Fanshawe College in London, and he had one more year to complete to graduate from the course to become a certified general accountant. He would article or have a position in a firm. The judge accepted that he was doing well in school. The judge accepted that he would earn, I believe the first figure was \$25,000 the first year, and then by the time he was 30 it would be \$37,500, and in 15 years he would be up to \$60,000 because this was the evidence.

Here's an individual who had a future income loss that was awarded at the present value of nine hundred and some thousand dollars, and it was accepted that he was going to be earning \$37,500 by the time he was 30, and later up to \$60,000.

Under Bill 164, of course, he would be relegated to 90% of the average weekly earnings, so obviously there's a real example of someone who would be significantly affected in the other aspect of economic loss, which is the loss of income. This case addresses that particular point.

Mr Harnick: Just to carry that one step further so that my good friends across the way can understand it—I know they don't want to understand it because the minister has told them his bill is the catch-all and everybody is reasonably looked after—when a person is entitled to claim and recover his actual economic loss when he's rendered a quadriplegic or a paraplegic or brain-damaged, what does that ability to have his income actually permit that person to do that he wouldn't otherwise be able to do?

Mr Downs: Obviously, the increased source of income will let them purchase greater amenities for themselves and increase their quality of life. It's all the more important for the more seriously injured of our population to have the greatest resources available to them, because obviously their quality of life is impaired significantly by their disability, and whatever they can obtain in other realms through increased resources will be a benefit to them.

It's particularly distressing for people like Stephen Mortimer or other spinal-cord-injured victims who have, through their efforts, been able to achieve a certain level of income, been innocent victims of an accident and have that taken away from them and not be compensated fully and not be able to purchase those amenities that will help them maintain a better quality of life.

Mr Harnick: Bill 164 essentially relegates that individual—

The Chair: Mr Harnick, I've got to cut you off there.

Mr Harnick: —to a bare subsistence, right?

Mr Downs: True.

Mr Harnick: Thank you.

The Chair: We've run out of time and we'd like to thank you for appearing before this committee.

STATE FARM MUTUAL
AUTOMOBILE INSURANCE CO

The Chair: The next group coming forward is State Farm insurance, Mr Harry Brown, I believe, and colleagues. Welcome to the standing committee on finance

and economic affairs. Take a seat. We have half an hour. In that half an hour, if you can leave some time at the end, as you can see, the members of the committee are anxious to ask you questions.

Mr Cliff Fraser: We look forward to it.

The Chair: If you don't mind identifying yourself and your colleagues, you may begin.

Mr Fraser: Good afternoon. My name is Cliff Fraser and I'm speaking on behalf of State Farm Mutual Automobile Insurance Co. In 1970, the Insurance Bureau of Canada set up a no-fault committee which I chaired. I have stayed close to the subject ever since that time and also served as an adviser to Justice Coulter Osborne during the government study on automobile insurance in 1988.

I have with me today Greg Hayward, our actuary responsible for our Canadian automobile business. Mr Hayward is a fellow of the Canadian Institute of Actuaries, and Mr Hayward has been active in Bill 164 consultations with both government and the Insurance Bureau of Canada actuarial committee. Also with me today is Ontario lawyer Harry Brown of the law firm Iacono, Brown.

Rather than read our written submission, which I hope you have, in its entirety, I will instead focus on the highlights of our concerns this afternoon to ensure there's adequate time for any questions the committee may have.

State Farm has been providing Ontario drivers with insurance since 1938. As of today, State Farm insures approximately 524,000 vehicles in Ontario. State Farm has over 300 agents in this province, who are supported by another 1,700 State Farm associates. Quite clearly, State Farm has a huge stake in the continued vitality of the automobile insurance marketplace in Ontario. Bill 164 threatens this vitality. Bill 164 substantially increases the cost of automobile insurance and thus takes a bigger bite out of the consumer's pocketbook.

Ontario automobile insurance consumers were subjected to significant increases in premiums until 1990. The introduction of a strong verbal no-fault threshold for personal injury claims plus a balanced system of first-party benefit payments allows the industry to provide the consumer with an automobile insurance product that is understandable and quick to provide compensation.

Auto insurance consumers in Ontario have clearly benefited from rate reductions and dividends. In fact, State Farm reduced auto insurance rates by an average of 8% in February 1991. This represents an annual saving of \$25 million per year. Also, State Farm paid a dividend to its policyholders in December 1991 of \$32.5 million. That's actual money we refunded to our customers. From the consumers' perspective, this turnaround in the auto insurance marketplace was from one of substantial rate increases to one where rates could be reduced and dividends paid. It certainly is worth preserving. Polls taken by COMPAS Research found that 76% of customers are satisfied with the current system.

Ontario Bill 164 will reverse the progress made over the last few years and impose new, additional cost burdens upon the consumer. If Ontario Bill 164 becomes law, the price of automobile insurance will go up substantially. Bill

164 would impose a very complex and difficult-to-administer auto insurance system upon the drivers of Ontario.

Everyone, including government, has agreed that Bill 164 would result in an increase in the cost of insurance in Ontario. There is no dispute regarding that fact. Various analyses have suggested different figures for a rate increase resulting from Bill 164, but all interested parties recognize that Bill 164 is more expensive than the current Ontario motorist protection plan. Polls taken by COMPAS Research found that 89% of consumers opposed Bill 164 if it would mean they must pay 15% more.

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Exhibit 3 of our brief dramatically demonstrates that Bill 164 will cost more than the current system. It contains four actuarial studies, including the government's own Mercer study. The Mercer study shows Bill 164 increasing personal injury costs by 13.3%. Please note that about 20% of all drivers do not insure their cars for collision coverage, and they will receive the largest percentage increase. I might point out that a lot of those good folks are senior citizens who have paid off their car, they don't drive to work during the rush-hours and things of that nature and they take a chance on collision. Even by the government's own study, those good folks' rates are going to go up 13%.

Exhibit 4 shows the dollar magnitude of the increases for typical State Farm households in various cities in Ontario. They range from a high of \$242 in Toronto to a low of \$150 per year in Ottawa. There would also be substantial increases in Hamilton, Windsor and other such cities across this province. Surely no consumer-minded government would impose these kinds of increases on the consuming public.

State Farm did retain Coopers and Lybrand to analyse Bill 164. The first study was released by us last October and these were some of the brief conclusions: increased costs and hence premium increases by 20%, or \$565 million per year across the province; it would make women and older drivers pay substantially more for automobile insurance due to reclassification of risks that will lead to unfair consumer cross-subsidization; it will eliminate choices for consumers; it will raise operating costs for companies, obviously, and result in employment reductions and possible bankruptcies of insurance organizations; increase access to tort and higher cost settlements, which will unduly increase costs; encourage capital flight as a result; this will send a signal to investors that the governments' freeze-and-squeeze regulatory framework makes Ontario an unattractive place for investment.

State Farm has also commissioned Coopers and Lybrand to do an actuarial analysis of the government Mercer report, and you should also have that exhibit. That analysis, entitled *Evaluation of the Impact of The Road Ahead on Rate Levels for Private Passenger Automobiles*, has been released to the public today. The Coopers and Lybrand analysis found the assumptions of the government's New York consultants to be seriously flawed. Coopers and Lybrand indicates the increase in personal injury costs to be closer to 33.3% rather than 13.3% and that increase for all coverages will be at least 15%, not the 4.4% Mercer states.

I repeat that for the 20% of drivers who don't carry collision and just carry the people coverage, that's going to increase their insurance rates by a third, according to our calculations, and even by the government's calculations by 13%. You can work out some mathematics and figure that the average premium across the province is around \$800.

Mr Hayward, our actuary, will be happy to expand on the actuarial analysis of Bill 164 that we've just given you when I've finished speaking.

Even without going into further actuarial details, however, it should be obvious that doubling and tripling the following benefits will cost the consumers much more: tripling the number of people who can be sued and required to pay for pain and suffering awards; doubling the death and funeral benefits; increasing the wage-loss benefit by 70% so the working poor will subsidize high-income earners; expanding the benefits for students, the unemployed and the self-employed; continually increasing benefits by indexing them to the consumer price index; and, finally, lifting the caps on accident benefits coverage to provide lifetime benefits with no dollar limitation.

Not only will the increased benefits and the increased right to sue cost consumers more, but the government's proposed uniform rate classification system will drive premiums even higher. Under a uniform class plan, good drivers will subsidize bad drivers in a system which has no basis in sound actuarial practice.

Exhibit 5 provides a graphic illustration of the cost increase that will result from the proposed plan. Please note again that seniors, young women and young married couples will be the hardest hit. We estimate that at least 80% of State Farm policyholders across this province will pay more under the proposed system.

Our recommendation is that Bill 164 and the accompanying regulations should not proceed further in the legislative process. It is seriously flawed, primarily due to the increases in cost consumers must pay. Consumers have clearly voiced their satisfaction with the current system where rate reductions have occurred. Consumers have voiced their opposition to paying more for Bill 164.

Our written submission, Mr Chairman, expands on the concerns I've just voiced. Thank you for the opportunity to comment. State Farm wants to preserve an automobile insurance system that allows us to provide the best combination of coverage, service and price. We would be pleased to answer any questions.

The Chair: There was one item I wanted to straighten out. Mr Harnick had mentioned Mr Eric Endicott; he's actually senior legal counsel for the ministry. So we'll go on to Mr Mancini.

Mr Harnick: My humblest apologies.

Mr Mancini: Good. Now that we know Mr Endicott's appropriate title and whatever else he does, we all feel that much better.

I want to ask the officials who have taken time to be with us today whether or not they're aware that they've joined a long list of witnesses who have appeared before this committee. Witness after witness, organization after organization have come forward to tell the government

members that Bill 164 will raise rates. I wonder if you're aware that you're not alone in this view.

Mr Fraser: Yes, Mr Mancini, I have been here quite a bit of the time. I've also watched it on the network. We ask ourselves many times who the constituency is, frankly, that this legislation is supposed to appeal to. We find NDP members don't like it. We find lawyers don't like it. We find insurance companies don't like it. We find the paraplegic group that just got off here doesn't like it. We know our policyholders don't like it. I'm not sure who that constituency is.

Mr Mancini: Today we found out something new. Every day on this committee we find out something new from the government members as to what their agenda is, and one of the government members—I believe it was Mr Johnson, if I'm correct—indicated today that there would be no premium rate increases to the consumers. He indicated today that the insurance industry would absorb the cost of Bill 164.

I'd like to know from you whether or not you believe that the industry can absorb the increase in cost because of Bill 164, and whether or not you've been told that by the minister or Mr Owens, the parliamentary assistant, or Mr Endicott, who seems to be the bureaucratic lightning rod for the government, if you've been told in any of your meetings that that is what's going to happen.

1520

Mr Fraser: We have not been specifically told that. The Honourable Brian Charlton has inferred that there could be some kind of rate freeze at some point. Yes, we have made profits in the more recent years. I think it's very good that some industries in this province are profitable, are solid and still in business and not laying people off.

Mr Mancini: There's not many left.

Mr Fraser: There's not many left, and if claims are presented to us, we want to be in a financial position to meet those obligations, and some of those obligations go on for decades. Next to banks, we are possibly the most controlled industry from a financial standpoint by Ottawa and the various provincial jurisdictions. If rates were artificially constrained, it would place hardship on insurance companies where their future obligations may be impaired and policyholders could find insolvencies occurring down the road. You definitely could not use up your surplus, which is there for growth, and with Canada's increased immigration and things like that, folks coming to Ontario, we have to write additional business, and you need a sound financial base to do that.

Mr Mancini: I've been saying to delegations and to members of the committee that the previous regulations, which were 18 pages, was a document that the industry and the brokers and everyone else associated with insurance could live with. I've also been telling everyone that the 68 pages of regulations that have been tabled along with Bill 164 are unintelligible to the average person, to the brokers. We've heard other groups come in who say that they are experts in the field and they cannot understand these regulations.

You've told us today that State Farm Insurance is the biggest insurer of automobiles in Ontario, so I would assume you have quite a bit of experience and a great deal of expertise in understanding regulations and I'd like your opinion on these 68 pages of regulations.

Mr Fraser: Just a correction, Mr Mancini. We are the third-largest auto insurer in Ontario. Frankly, the top three are within a decimal point apart. We are the largest auto insurance company in the world.

The regulations frankly are incredible. I've been in the business 40 years. I've read those regulations and the ones that preceded them, which were some 70-odd pages, late into the evenings. I do not understand them.

But I would like to ask our lawyer, which I am not, who makes a profession of reading that kind of complicated material, to comment on that. Mr Brown.

Mr Harry Brown: I'm in a conflict here. If I say I don't understand it, there won't be any more work available. But I guess the reality is that the new draft regulation, even the user-friendly version we've just seen, the 67-page one, is extremely complicated and lengthy and difficult to understand from anyone's perspective, and I'm talking even from my own legal perspective. The president of the Ontario trial lawyers' association has told me that he thought it read like the Income Tax Act. That was the previous 70-page document, not the 67-page document, but there isn't a dramatic difference. You contrast it with the present regulation, which isn't simple, but it's relatively simple to understand and deal with.

I think you've heard before you the problems of an injured person getting a 67-page document, plus the other portions of the policy when he has an accident, plus the accident benefits forms, and he's told, "Here, go make your claim." The problem is, the first thing you're going to do is say, "My goodness, I'd better get a lawyer." You're going to increase transaction costs on the injured consumer side to help walk them through this myriad. Then you're going to have the insurance adjuster saying, "I'm not sure where I should place this person." They could be at once a care giver, they could be working part-time, they could be going to school in a certain way. Where do they fit in? Which election do they make? Do they do a lump sum? Do they go through the three- and eight-year mandatory reassessment process? The adjuster gets legal counsel, and what you have is increasing transaction costs built up in the system, plus the frustrations.

That has to be understood in the context of what you're doing. If you're going to deal with the administrative efficiencies of amending this process, the better thing to do, in my respectful view, is to consider amending Bill 68 to provide for any new benefit coverage you think is appropriate, the reason being that you have this very complicated statutory accident benefits schedule to deal with in the context now of three different regimes of automobile insurance. You've got the tort plan, which is still having runoff of cases—and I've a 12-person law firm doing nothing but insurance, by the way, so we know this.

Mr Brad Ward (Brantford): Still going through the courts?

Mr Harry Brown: Still going. We have maybe 1,000 files in our office. The old tort system, including some of the old no-fault benefit cases, are still running off.

Mr Ward: They never get paid right away.

Mr Harry Brown: I didn't say it was a good system.

The Chair: I'm sorry. Talk to the Chair, please.

Mr Harry Brown: I'm sorry, sir. I'm just getting questions from your own members.

You have the OMPP system, then you have a totally new system, the Bill 164 system. So you have the problems of dealing with the very complicated document in the context of three systems, with the inevitable overlapping of claims. The result is going to be that you're going to have a very heavy transaction cost to the insured person, the consumer, who pays out of his or her own pocket to the insurance company, which simply pays it and seeks a rate increase to pay for it. So on the basis of an efficient system, which is defined as being the least transaction-oriented system, the least costly transaction-oriented, this is an administrative nightmare.

The Chair: Mr Harnick. Both of you should understand the questions and the answers then.

Mr Harnick: I never understand Harry.

Mr Fraser, I think one of the problems is that we have a government that's amending something, I think more for the sake of saying, "It's ours as opposed to theirs." It seems to me that, as people have indicated, this is going to be a nightmare for lawyers to deal with. It's going to be a nightmare for insurers to deal with. It's going to be absolutely deadly for consumers to deal with.

We also know that the costs, based on your studies and even based on the Mercer studies, are going up somewhere realistically between 20% and 30%. We see at the same time that the costs are going up, situations where in fatal accidents people aren't going to be properly provided for, and I'm sure you'd be the first to acknowledge that Bill 164 is downright miserly when it comes to looking after dependants, probably paying a fraction of what the OMPP would pay in a fatal accident.

We also saw that a student who would be rendered unable to work as a result of an accident would be living on the poverty line for the rest of his life, based on what Bill 164 would provide. Yet the major criticism of the OMPP was the high threshold and it's been suggested that we include psychological injury specifically as well.

What I want to know very briefly is, if the OMPP were amended to lower the threshold so the injury didn't have to be permanently serious, but only permanent or serious, would you agree with me that the increase in premium cost would be about 10.5%?

Mr Fraser: I'll ask Mr Hayward, our actuary, but first I want to speak in general terms as an insurance person. When the FAIR group was here, Professor Carr, I believe the name was, made the statement that the insurance industry supports pure no-fault, which would be the Quebec program. Forget the fact that it's run by government.

Now that is absolutely incorrect. The insurance industry supports a threshold no-fault system. State Farm particularly supports a threshold program where those

catastrophic injuries—those people have traditional access to tort for economic loss and pain and suffering, where it has the compassion and the individualization of the judicial system to personalize the judgements. All we're talking about is where you draw that line and that's what you're coming to. I'd like Mr Hayward to—

1530

Mr Harnick: I don't want you to think that I'm setting you up here. I don't want to jump in and say, "Ah, you're wrong, I've got other information." The insurance bureau has indicated that it would cost about 10.5% more to provide coverage for psychological injuries on a lower-threshold basis. It seems to me that's about a third or a half—

The Chair: Mr Harnick, don't you want an answer?

Mr Harnick: Just let me finish the question.

The Chair: I don't hear a question.

Mr Harnick: That's about a third or a half of what the government's costs are going to be under Bill 164 to consumers, and we're going to get so much more.

The Chair: If I don't hear a question, I'll go on to the next.

Mr Harnick: Can you respond to that?

Mr Greg Hayward: Yes, I believe your statement is consistent. I have been heavily involved with the actuarial committee of the Insurance Bureau of Canada and I believe that is consistent. Basically, dropping the requirement that the injury be physical in nature is the key phrase that's in the threshold today, and I have—yes, you've handed me the analysis. So I think that is consistent.

Mr Harnick: It just seems to me that by doing that, the costs are going to go up by 10% versus 20% or 30% under Bill 164.

The Chair: Mr Harnick, I'm sorry. Mr Owens.

Mr Owens: Thank you, Chair.

Mr Harnick: Right, Cliff?

Mr Fraser: You just said it.

Mr Harnick: Thank you.

Mr Fraser: We agree.

Mr Owens: My first question is to Mr Hayward on the report that was presented today. When the analysis, this report, was prepared, did you or your committee go back to the original data and do an actuarial analysis, or did you look at the Mercer report and simply, as actuaries, do a report on an actuarial report?

Mr Hayward: We've been doing both. This legislation's been around for about 13 months now and—

Mr Owens: But in terms of this document.

Mr Hayward: Yes, I'd be happy to address that. In terms of this document, what we asked Coopers and Lybrand to do was to try to reconcile the differences between the numbers that we were coming up with and the numbers that Mercer was coming up with. With all due respect to Mercer, we came to the conclusion, and asked Coopers and Lybrand to study this independently, that there are some inappropriate assumptions in there.

For example, the road safety plan that is included in the Mercer study: They've assumed that the intended road safety programs—I say "intended"—will impact Bill 164 only and will not impact the current system, the OMPP. Any road safety programs would affect either system, not just Bill 164. That has an effect. It tends to underestimate the cost.

Also, another item: The use of Quebec data is very questionable, whether those should be used in any actuarial costing in Ontario. Clearly, Quebec is a different system, a different environment than Ontario. Mr Khury, in his statements to the committee, tended to downplay that by saying it only had a 2% impact in the overall cost, but that 2% amounts to about \$70 million in increased premiums for Ontario consumers, so that's an important fact.

Further, Mercer assumed a July 1, 1992, effective date. We're now sitting here in January 1993. That assumption cannot be correct. That underestimates the trends, it underestimates the indexation clauses that are in Bill 164 and further underestimates the costs.

Lastly, one further item on what are the differences between Mercer and the other actuarial studies, and Mr Khury alluded to this when he was talking about the economic loss benefits. The Mercer study concludes that the economic loss benefits under Bill 164 will be less than the economic loss benefits that are under the current package. A doubling of benefits under the 67-page accident benefit schedule: they come to the conclusion that all of those increased economic losses will in fact be less than what is in the current system.

Mr Owens: In terms of your comments around the regulation, the Liberals contend that their 18 pages covered all victims, when in fact they substantially left out a large proportion. We talk about insurance programs having gaps; we're not talking about the kinds of gaps you can drive a truck through backwards in terms of those that don't quite meet the test of either being dead or permanently and seriously disabled.

I'd like to direct my next question to Mr Fraser. I'm pleased that you're profitable; \$70 million, I believe, was the figure that you reported in a press conference. Is that correct?

Mr Fraser: I can comment on that. Our books aren't closed yet. Obviously, it's still January. They allow individuals till the end of April, and it takes a corporation a little bit of time. That would be investment income, between \$70 million and \$80 million for Canada. I cannot isolate investment income by province; it's spread all over the place. But that's not necessarily profit, because half of that goes in income tax.

Mr Owens: How do you reconcile the differences in position between yourself, as State Farm, and the Insurance Bureau of Canada, where the IBC has indicated that it has some difficulties with the legislation but is willing to sit down and is involved in the task force? How do you reconcile those differences? How can you be so far apart from the organization that represents insurance companies?

Mr Fraser: We are not far apart. I think you took a few liberties in indicating that they have a fairly soft position. I

am a director of the Insurance Bureau of Canada, I have been a member of the steering committee and I've worked with government in every meeting, so I've been very much involved.

By nature, trade organizations from time to time take more of a generic kind of a position because they represent 150 different insurers, but the Insurance Bureau of Canada is dead set against this legislation. Their preferred position would be that it be withdrawn. If it cannot be withdrawn, naturally we want to work with government to try to improve it, and that's State Farm's position also.

The Chair: Okay, fine. Time has run out.

Mrs Caplan: I'd like to move that the parliamentary assistant, Mr Owens, have five more minutes to continue his line of questioning.

The Chair: Sorry, I'm going to overrule that because we're behind already.

Mrs Caplan: That's a motion.

The Chair: Okay. Unanimous consent? No? See, they understand the Chair.

Mr Phillips: Mr Chair, there may be an omission that I wonder if they could clear up for us, and that's on page 16 of this document. It indicates here that seniors over 65 years of age, many of whom live on fixed incomes, could face a 24% increase in their rates. Could that be the case, Greg? It's almost unbelievable.

The Chair: They'll be able to explain it to you out in the hallway, Mr Phillips.

Mr Phillips: So it is true? Okay.

The Chair: I'm sorry, time is up, and I know the chamber of commerce is just waiting. I see a good friend of mine, Don Eastman, sitting back there, so thank you.

Just before I go on to that, I have to have unanimous consent that Cam Jackson is substituting for David Tilson, who's gone home sick.

Mrs Caplan: You need unanimous consent?

The Chair: Agreed? Okay. Cam, welcome to the committee.

1540

ONTARIO CHAMBER OF COMMERCE

The Chair: I'd like to welcome the Ontario Chamber of Commerce, Mr Don Eastman, vice-president, and Ms Linda Matthews, past president. Welcome to the committee. We have one half-hour. In that one half-hour, if you can leave some time at the end of your brief, as you can see, the members are anxious to ask questions. They'd love to ask questions for an hour here. Go ahead, please.

Mr Don Eastman: The Ontario Chamber of Commerce represents 65,000 businesses across the province. We're an association of 172 local chambers of commerce and boards of trade and we represent every type of business in the province from small, family-owned establishments to large international corporations. Our membership represents a majority of the private sector jobs in the province.

We're here to comment on this bill partly on behalf of our insurance industry members, but primarily on behalf

of our other members who will be affected by this legislation. They'll be affected both in terms of direct insurance costs and in terms of how this bill affects the overall business climate in Ontario.

The Ontario chamber believes that there are issues surrounding this legislation that go beyond the effects they have on the insurance industry. We are eager to see that everyone's needs—business at large, the insurance industry, the public and accident victims—are properly considered and addressed. All of us want low-cost auto insurance that provides fair and prompt compensation to accident victims without having adverse outside impacts. Bill 164, as drafted, raises some disturbing questions for us.

A substantial portion of the total traffic and highway usage in the province relates directly to business activities. If transportation costs are increased through higher insurance fees, these will simply add to the cost burden that is already costing this province jobs.

The Ontario chamber agrees that changes to the Ontario motorist protection plan are warranted. The government should endeavour, in cooperation with the industry, to ensure that victims of auto accidents are treated with fairness and dignity, balanced with cost and affordability. However, we believe that Bill 164 does not achieve this.

We note with concern that a recent study estimated that the expanded benefits package proposed in Bill 164, along with increased administrative costs for the insurance industry, could drive premiums up for Ontario drivers by an average of 20%. We've heard numbers that start at 5% and most of them seem to escalate quickly to the 20% range. We believe, both as businesspersons and as private buyers of insurance, that such increases would be unacceptable.

The current system of auto insurance in Ontario seems to be working relatively well, with premiums having stabilized and claims being settled more quickly and efficiently. We're concerned that Bill 164 appears to take us away from that progress.

We feel that this legislation suffers from being pushed ahead, perhaps because of political considerations rather than any demonstrated economic need. It's imperative that the government allow careful study and time to judge the current system. It would greatly assure our members if the government could clearly show that our auto insurance costs are not at risk of skyrocketing due to Bill 164. We have not been reassured during these public hearings.

One component of the cost issue is the legislation's complexity. Legislation that is excessively complex may provide a comfortable haven for lawyers and bureaucrats, but for the rest of us it represents a substantial cost burden: wasted money when there is already too little for doing things of value. We understand that this complexity could translate into the need for perhaps an additional 100 civil servants and \$5 million in additional annual administrative costs if implemented. None of us can afford legislated inefficiency.

Beyond our obvious concerns about the impact of the proposed legislation on the costs of auto insurance, we're also troubled by the signals that Bill 164 is sending the business community as a whole regarding this government's understanding of the province's business

environment. We're in an era that requires governments to understand that they're part of a global economy. It doesn't take much of a look around the world to understand that governments that attempt to hide behind walls of protectionism and regulatory barriers are soon left behind.

Despite recent amendments to the withdrawal provisions of the bill, the bill that is in front of you still devotes much effort to restricting the ability of insurers to leave the marketplace. The concern is, is the government so concerned that Bill 164 may drive insurers out of the marketplace that it needs to restrict the right of insurers to make a purely economic decision?

This type of action does nothing to boost investor confidence in Ontario. It sends a strong message to investors and trading partners that there is a risk that the Ontario government will not allow them to control their own business affairs and make their own decisions, and that if an investor does choose to invest in Ontario, it faces a risk of having its investment held virtually hostage. It's important to learn from the experience of others. Both Massachusetts and New Jersey passed similar types of provisions on withdrawal. It's resulted in insurers leaving those states anyway, triggering costly legal battles. There are better ways to spend taxpayers' money.

The Ontario chamber is also concerned that Bill 164 would give the Ontario cabinet the regulatory power to initiate changes to the insurance class plan and rating methods. It's part of a disturbing trend we've seen in government to cut off public and parliamentary debate in areas of public concern.

In the case of auto insurance, we feel that the government needs to ensure the involvement of all concerned parties when making important decisions regarding changes to such items as the risk classification system. There's no question of the need for a regulatory path, but it needs to supplement the public policy arena, not supersede it.

Auto insurance is a complex and technical product. We're concerned that empowering the cabinet to make decisions on auto insurance will mean that auto insurance will turn into a political football. It's our opinion that regulatory powers should rest with the experts at the Ontario Insurance Commission, making full use of the technical knowledge base of the insurance industry.

The Ontario chamber urges the committee to look at Bill 164 in a broader context. We are very supportive of establishing a road safety agency, as proposed in Bill 39, that would concentrate on convincing motorists that driving in a dangerous manner is not socially acceptable. The best solution for our auto insurance problem is to reduce the number of accidents, reduce the number of victims. We need to use innovative social instruments to change attitudes regarding dangerous driving as a means of achieving low premiums on auto insurance and improving the capability of the system to respond to the needs of victims.

Establishment of a road safety agency could reduce the number and severity of auto accidents and lead to a decrease in insurance costs. We would like to offer the support of the Ontario Chamber of Commerce and our network of community chambers of commerce and boards of trade across Ontario to ensure that this initiative bears fruit.

In conclusion, we feel that Bill 164 does not address the fundamental need for reform to the Ontario motorist protection plan and it does pose an unreasonable risk of increased auto insurance costs to both our members as consumers and the insurance industry in Ontario.

The government should consider initiating such road safety measures as the graduated licensing system and stricter enforcement and penalties for drivers convicted of dangerous driving. It should work with the insurance industry to identify weaknesses in the present system and initiate improvements, without higher costs to Ontario's auto insurance consumers.

Thank you for this opportunity.

1550

Mr Harnick: Seeing as you're a chamber of commerce and, I gather, represent a lot of small businesses in Ontario, I wonder whether you're aware of the fact that if a small business person is involved in an accident, he cannot claim his actual economic loss beyond what the prescribed benefits are going to pay him.

If his business shows that he's drawing very little income out of it, he gets a benefit based on whatever income he's drawing out, or a percentage of whatever income he's drawing out, and in the meantime, as he sits at home trying to recuperate and is starving, the business goes bankrupt. It's a business that you might be able to prove, based on accounting numbers, was growing and it was very close to the point where it was going to be prospering, so that the individual's income might be two, three, four, even five times what it was at the time of the accident, but all that person can get are those prescribed benefits.

What's your position in so far as the right of individuals to claim for their actual economic loss, beyond what the accident benefits pay, is concerned?

Ms Linda Matthews: Certainly, Mr Harnick, that's one of the areas where our members are concerned and one of the areas where the current OMPP product is lagging. It would be one of those areas that we believe could be improved under the current OMPP so that some additional consideration could be made for the cost of running that business while the self-employed person is disabled. There may be an opportunity or a need to charge that businessperson an additional premium for that coverage, but it's an area that could be addressed under OMPP.

Mr Harnick: You see, as this proposed bill reads, it will be against the law for anyone to claim for his actual economic loss. Even if the insurers wanted to offer additional coverage, they couldn't do that unless the bill was amended so that we could then go out and buy income protection—

Ms Matthews: That's right.

Mr Harnick: —which I suspect would be something the insurers might want to sell; it's another product. Those of us who want to protect our income would at least have the opportunity to do it. Is that something that you, as a chamber of commerce, would think would be to the benefit of all income earners who want the opportunity to protect their income?

Ms Matthews: It is definitely of concern to our members and something we feel is not provided under Bill 164.

Mr Cameron Jackson (Burlington South): Just a quick question: In your survey of all your member chambers in Ontario, in the process of formulating all your input, did you have any individual chambers come forward to indicate support for Bill 164?

Mr Eastman: We did not.

Ms Matthews: Not that I'm aware of, no.

Mr Jackson: Was there any element of the bill where there was a consensus of support on a provision of the bill?

Ms Matthews: Not that I'm aware of. We were sitting listening to some of the previous presenters as well, Mr Jackson. From our understanding, certainly our members are not happy with this piece of legislation. We've heard others say that their membership is not happy with it either.

Mr Jackson: One final question has to do with your referencing of the hijacking the transfer of capital and the movement of capital for any enterprise in our jurisdiction. Do you think this might be the beginning of activities that could include, for example, restrictions on the movement of your RRSP moneys and other pension benefits to other provinces and so on? Is that part of your concern? Can it lead to a whole series of non-portabilities of your equity?

Mr Eastman: If I can comment, there's an issue of principle here in terms of just what can be done and is appropriate to be done. Once the principle is breached, as this bill breaches it, it raises a real concern of, when is the next breach going to take place? What will happen next? What is the level of comfort you can be assured of?

Mr Klopp: Good afternoon. It's a pleasure to be here. I appreciate your comments.

On page 4, you made reference to provisions of the bill to hold up companies if they wish to get out of the insurance business in Ontario, or even out of an area. I don't know if you're aware of the amendments to the act that are taking place. In fact, the commission is only asking—and I think it's only fair—that a company wishing to get out give 180 days' notice. Further to that, when the commission reads it over it may ask for a further 90 days' delay, just for the people of Ontario, and especially for the people of insurance companies, but indeed not stopping them from leaving. I don't know if you're aware of that amendment.

Ms Matthews: We were aware that there had been amendments made, Mr Klopp, but there's still the philosophical issue of the rights of a business to make decisions based on economic factors and the interference in that process. There are still, I believe, penalties and fines. No? Then my information isn't right.

Mr Klopp: That comes, I think, from what you've talked about earlier, that this government is indeed consulting with the business community in this particular area plus in so many others. But also there are the people they do serve; ie, if I have insurance with a company I think it's in my right and I'm glad there's a provision that at least they give notice, to the public good of 180 days, at least, to know that I may or may not have insurance. They're going

to leave, of course. So I just wanted to make that clarification on that.

Further, you made some comments earlier in the first part here. The chamber agrees that there should be changes to the motorist protection plan. I have chamber of commerce people I'm aware of, and like so many others, they're still individual people. A lot of us have insurance or lots of things that we buy and then we find out when we hit somebody—that's when we read the fine print. You made the statement that there should be changes made. Could you expand on where those changes should be?

Ms Matthews: We addressed one area of concern of our members earlier, and that's with respect to the small business persons and the ability to recover the cost of running their business as an ongoing entity even though they may be involved in an auto accident.

Mr Klopp: Which they can't in this.

Ms Matthews: I think certainly too that the OMPP itself could be improved with the indexation of benefits as an area that is addressed. But when you get into the area of things like unlimited liability by removing the caps on rehabilitation and home care and issues like that, you get into very expensive provisions under Bill 164 that are the very reasons that we are therefore concerned about the increase in the cost of that product. It seems to me that unlimited liability is not available in other types of accidents and provisions, and that it seems to be an area that would cause the product to almost be unpriceable because you no longer have control of what your potential costs may be.

Mr Klopp: That's a concern that we've been carrying through, even in our whole process of changing this. Groups have come in here already and said we haven't gone far enough. When we've had clients who have said, "You should even have more coverage for us," we've been trying to strike a balance.

Ms Matthews: Sure.

Mr Klopp: In dealing with groups that are in the business they said that yes, you can have everything, but it's going to cost X amount of dollars over here. Being in a business like myself, maybe if I can go back to my own business, I want the best tractor. I have to work—

Ms Matthews: Affordability.

Mr Klopp: —out what I need but I still need a tractor.

Ms Matthews: That's right.

Mr Klopp: I think that's where this balance has been working and it's an ongoing process. I appreciate your comments. Thank you.

Mr Phillips: I appreciate very much the chamber's perspective. I think you have your finger on the pulse of the economy, perhaps as well as anybody.

Everything I've heard so far on this bill—I think we can now feel fairly confident that it's going to cost the people in Ontario \$500 million. That's what it's going to take out of the pockets of the people in Ontario.

We hear right now that the government cannot afford, and understandably, to give the schools any money—zero money. The schools will get no grants. The hospitals will

get nothing. But for every single individual who drives a car in this province, rates are going to up dramatically. It is perhaps, in my opinion, one of the most regressive taxes because no matter what you earn, your rates are going to go up. It's going to take out of the pockets of the people of Ontario \$500 million.

I don't think the NDP has any idea. It's sort of like this is all just coming out of nowhere. They don't understand that the people of Ontario are going to have to take out of their pockets—we saw today that the seniors living on fixed incomes, the people who phone my office and say, "We've had enough," their rates are going to go up 24%.

What I'm leading up to with the chamber is, what sort of environment are we facing out there right now and how much should we worry about taking \$500 million out of the hands of the consuming public and the taxpaying public?

1600

Ms Matthews: It's certainly a major concern with respect to an economic recovery in this province. It's money that certainly could be better spent on consumer goods and products and in other areas, so it's a concern on a dollars-and-cents basis. It's also a concern, as we mentioned in our brief, on a philosophical basis as to what it does to business confidence, consumer confidence given the fact that costs go up and up and yet they are faced with no job or frozen wages or fixed incomes or whatever. It's certainly a concern to confidence.

Mrs Caplan: My constituents in Oriole are concerned that this piece of legislation is going to cost them more and it's not going to mean that they're going to get anything, really, for that money. Many of them are worried about their jobs tomorrow, the uncertainty that you've spoken about.

What we've heard you say is that the present plan seems to be working well—that's what you said in your brief—and that your advice to the government would be to study that for a while. Do you think this bill should be withdrawn and nothing should happen, or that this bill should try to be amended? What do you think would be in the interest of my constituents in Oriole who are worried about having to pay more for auto insurance? There are a lot of seniors, a lot of working-class people who have to drive a car.

Mr Eastman: In our opinion, the best option would be to withdraw the bill and consider the appropriate changes to the Ontario motorist protection plan.

Mr Mancini: Good.

The Chair: One minute left.

Mr Mancini: I have a question. I'm quite concerned about the attitude the government members have towards profits. We are in the middle of a three- or four-year recession, the longest and the worst since the Great Depression. Any time anyone mentions the word "profits," we get interjections and cackling from the government members, as if they don't need companies to make profits so they can be taxed so they can help pay down their deficit. I was wondering, in your dealings with the government ministers and other senior officials in the government, do you still

find that they are abrasive towards the attitude of private corporations making some profits in this province?

Mrs Caplan: They sort of think "profit" is a four-letter word, we think.

Mr Klopp: What it has to do with this bill I'll never know.

Mr Mancini: It has everything to do with it, because Mr Johnson was here yesterday, cackling about profits.

Mr Phillips: What has it to do with profits? You say that you're going to take another \$500 million—

Interjections.

The Chair: Don, talk to the Chair. I'm shutting their mikes off on either side.

Mr Eastman: I think profit is a tremendously important concept.

Mr Klopp: So does our government. We agree with that, too.

Mr Mancini: Oh, go on. How come you're all laughing and cackling about it?

Mr Eastman: The profit concept is what really makes the difference between what permits our economy to work and the Soviet Union's experience of not working. How that fits with each of the individual members' understanding of the role of profits I would sooner not comment on.

The Chair: Okay, I'd like to thank you for appearing before this committee. I think you've added a little bit of extra information that we didn't have before. Thank you.

Mr Eastman: Thank you.

ASSOCIATED CANADIAN CAR RENTAL OPERATORS

The Chair: The next group we've got coming forward is the Associated Canadian Car Rental Operators. Do you have any associates with you? Okay, fine. Would you mind identifying yourself for the purposes of Hansard and the people of Ontario.

Mr Sid Kenmir: My name is Sid Kenmir. I am the executive director of the Associated Canadian Car Rental Operators. Thank you for the opportunity to appear before the committee.

The Associated Canadian Car Rental Operators is the major industry association for car and truck rental operators. I speak on behalf of 65 daily rental companies in Ontario. Our members include both the largest and the smallest car and truck rental companies in Ontario.

The car and truck rental industry in Ontario currently employs about 7,000 people. It is one of the major purchasers of automobiles and trucks, buying and insuring approximately 50,000 vehicles annually. Our customers are tourists, travelling business people, Ontario residents who require replacement cars after accidents and/or while their cars are being repaired, and those who do not own cars but require one on an occasional basis for weekends and holidays.

Our industry supported Bill 68, known as the Ontario motorist protection plan, OMPP, during its legislative passage. We continue to support OMPP for several reasons, not the least of which is the new stability in automobile

insurance premiums. As you recall, prior to its introduction, rates had been rising in response to dramatic increases in claims costs. OMPP was designed to control rising costs in order to cap rising premiums, while at the same time provide a fair level of benefits to those unfortunate individuals who were injured in accidents.

Our experience over the last 30 months suggests that OMPP represents a fair and reasonable tradeoff between premiums and benefit levels. And why not, after the extensive work which preceded its design? In addition to stabilizing premiums, we have observed the insurance industry develop a new service-oriented attitude in place of its adversarial attitude prior to OMPP. We have seen our claims handled in a much quicker and more efficient manner. Many of our firms have received premium reductions under OMPP; in turn, these savings have been passed on to our customers.

We are here today because the car and truck rental industry in Ontario believes that Bill 164 is a solution in search of a problem.

Our industry opposes Bill 164. We ask that the bill be withdrawn so that there can be opportunity for further review and consideration. I would like to take the next few minutes to make what I hope you will perceive to be a compelling case against this ill-conceived piece of legislation.

Let me say first that I recognize the challenges that this government faces. The challenges are many and they include unemployment, increasing taxes, rising provincial debt, technological change, global competition and enormous pressures on our social welfare and health care systems. Against this backdrop, I must state that surely this government must focus on what matters, which the Premier has said is the economy. I fail to see how the passage of Bill 164 will help the Premier, whom I have enormous respect for, achieve his goal of economic recovery for this province.

Voters understand that this is the first time the NDP has had the opportunity to govern and that it is through sheer misfortune that this opportunity presented itself at a time when Ontario faces so many formidable challenges. Voters will measure the performance of the government by its ability to help Ontario achieve economic recovery. Therefore, this government must focus on legislation and policy which will help Ontario achieve economic recovery and not be sidetracked by legislation designed to appease caucus members who believe that something must be done on auto insurance, whatever that something may be.

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Not only will Bill 164 not encourage economic recovery, it will actually discourage economic recovery. It will do this because claims costs will rise significantly, which means premium increases. Our industry calculates that insurance costs will increase well in excess of the \$200 per year cited by the industry, for two reasons. First, we believe significantly more than 18% of claimants will be able to sue for non-economic loss after application of the proposed deductible. Second, we believe the \$15,000 will have an inflationary impact on awards, driving awards higher than they should be.

I would like to elaborate on how Bill 164 will discourage economic recovery. Increased premiums will mean that car and truck rentals will increase in price. This reflects the fact that car insurance is the biggest operating expense after the purchase of vehicles on our income statements. Since demand for car rentals is somewhat elastic, the price increase means there will be less demand and it is likely that some of our smaller operators will be put out of business. One of the reasons our industry was able to return prices to 1980s levels was the introduction of stable insurance premiums brought about by the Ontario motorist protection plan.

Not only will car rentals not be as affordable for Ontario consumers, they will also be less affordable for tourists who visit Ontario and rent cars. At a time when it is already acknowledged by tourism industry officials that Ontario is an expensive destination for American tourists, it does not make sense that public policy will add even more costs on the backs of tourists who vote, if you like, with their feet by not coming back to Ontario.

We applaud the government's decision to appoint a task force on rehabilitation and long-term care benefits for people injured in automobile accidents. This represents a first step towards what the industry hopes will be a decision to introduce enhancements to the current system in order to arrive at an even better balance between affordability, fairness and benefits.

We also hope that if the government has the political courage to embark on this route, it will return to the House with a bill that addresses the root of the problem: accident frequency and severity. Like others who have appeared before this committee, the car and truck rental industry is extremely disappointed by the bill's lack of road safety measures.

Although I am not a public policy expert, it baffles me that this government wants to proceed with comprehensive reform of the system without these measures. Surely Ontario can play a leadership role in the field of road safety by putting together a group of experts in this area to develop measures and incorporate them into a bill that will truly represent positive change of the auto insurance system.

In conclusion, the car and truck rental industry acknowledges that no system, including OMPP, is perfect. The current system can be improved with changes on a smaller scale than those proposed in Bill 164, changes that make better sense for our industry and for drivers and will keep insurance at an affordable price. Like others who have appeared before this committee, we ask that the government withdraw the bill and allow time for further review.

I appreciate the opportunity to appear before this committee and thank you for your consideration.

Mr Ward: Thank you for coming out this afternoon to give your fine presentation on behalf of the Associated Canadian Car Rental Operators.

I notice you have some concerns about Bill 164. I think you understand that as a government, after our election, we had serious concerns with the existing auto insurance plan. We felt it was inadequate for a number of reasons and it needed change. When we made the decision not to proceed

with public auto insurance, we developed Bill 164, which we have before us today. With Bill 164, we tried to strike a balance between expanded and enhanced benefits for many innocent motor vehicle accident victims while still being concerned about the cost to the driving public through premiums.

If you can try to divest yourself of the cost aspect—and I know you can't; you have to realize that every benefit you increase is a cost to it—just say you could for a moment and just look at the benefits we've improved through Bill 164. Setting the cost aside, could you support those benefits that we've increased?

Mr Kenmir: No, a lot of those benefits I can't support. The \$15,000 deductible from \$600 to \$1,000 a week, I just can't support all that stuff.

Mr Ward: Setting the cost aside, you couldn't support and your members couldn't support increasing the benefit from \$600 to \$1,000?

Mr Kenmir: I don't think so.

Mr Ward: Why not?

Mr Kenmir: They have said at meetings—I'm not an insurance expert myself, I'm a car rental person—that they don't want changes, and I'm here on behalf of them rather than drag 65 people in here today.

Mr Ward: You don't support any of those benefits?

Mr Kenmir: No.

Mr Ward: Not one, your organization, the Associated Canadian Car Rental Operators?

Mr Kenmir: The Ontario car and truck rental operators would like to leave everything just the way it is right now.

Mr Ward: So I understand. We set aside the cost aspect.

Mr Phillips: That, and you weren't in the real world.

Mr Ward: If we set aside the cost aspect.

Mr Harnick: Sort of like the government does every day.

Mr Ward: Mr Chair, we've got some interjections from the opposition across the way there.

The Chair: Address the Chair.

Mr Harnick: Do what the government does every day.

Mrs Caplan: Mr Ward knows you can't set aside the cost.

Mr Ward: Mr Chair, I believe it's my turn to question the witness.

The Chair: It is. I don't hear anybody on the other side.

Mr Ward: Why would the Associated Canadian Car Rental Operators want to leave the exemption for, say, head injury people? Why would they want to leave that out of the OMPP?

Mr Harnick: What exemption for a head injury? There's no exemption for a head injury person.

Mr Ward: Why would they not want to enhance the benefits to include them?

Mr Kenmir: I think that—

Mrs Caplan: They're worse off under your legislation.

Mr Harnick: They can't claim for their economic loss.

The Chair: I'm sorry. Mr Harnick, I don't think you want anybody—

Mr Harnick: On a point of order, Mr Chairman.

The Chair: What's your problem, Mr Harnick, or your point of order?

Mr Harnick: The question dealt with an exemption for head injury people under the Ontario motorist protection plan, I've got to tell you, Mr Chairman, there is no exemption for head injury people. There is a deletion or an elimination of those claiming for psychiatric loss under OMPP, which is a glaring mistake within the Ontario motorist protection plan, but when the witness is asked a question—

The Chair: I don't believe it's a point of order. I can't answer that and I think when it comes to your turn, you can use your nickel at that point to ask those questions or clarification.

Mr Harnick: I don't have a nickel.

The Chair: Well, your five minutes. Mr Ward, carry on, please.

Mr Ward: Thank you, Mr Chair. Why would the Associated Canadian Car Rental Operators be opposed to indexing some of the benefits?

Mr Kenmir: Most of the car rental companies deal very closely with their insurance carriers. Our premiums are always based on dollars in, dollars out.

Mr Ward: We set aside the cost, though.

Mr Kenmir: If Bill 164 makes one change, if we take that \$600 a week up to \$650, our premiums would go up a certain amount, and we don't want that.

Mr Ward: If I may, do I have—

The Chair: You've got time for another question.

Mr Ward: One more question.

The Chair: Yes, you've got two minutes left.

Mr Ward: What I was trying to get at, through the interjections of the opposition—which I don't do to them when they ask their questions, Mr Chair—is that we think that these enhanced benefits can be brought into operation through Bill 164 without undue pressure on increasing the premiums.

Mr Kenmir: We don't agree with that.

Mr Ward: If we can accomplish that, would you still be opposed to increasing the benefits and enhancing the benefit package for innocent accident victims in the province of Ontario?

Mr Kenmir: If this bill went through with no premium increase, the insurance companies would go right out of business and move out of the province and you could have what you wanted to start in the first place. That's all you could have. It just can't be done.

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Mr Ward: You don't think so?

Mr Kenmir: No.

Mr Phillips: I think we have our solution now, thanks to Mr Ward and others, and that is that the premise of this

bill put forward by the government is that it will not increase premiums. If it were to increase premiums, I'm gathering now the government would withdraw the bill, because the whole assumption from the government is that premiums will not increase. I think now all we need to do is determine that, and if we can prove the premiums won't go up, then many of the concerns about the bill will disappear. But if the premiums are going to go up anywhere near what we've now heard from many, many witnesses, I gather the government will withdraw the bill.

I think what we need to focus on now is whether premiums will go up or not, because all the government members have said to us now the reason they're supporting the bill is because the premiums won't go up and the benefits will change as proposed. So we have the focus now, Mr Chairman, and I think over the next little while that's where we need to focus. At the end of the exercise, after we've gone through the Mercer report in more detail and after we've examined that, that's what we need to find.

I would hope the government, once those numbers are finally agreed upon, if it is shown that there will be a premium increase, would now agree to withdraw the bill. Perhaps we can have some comment from the parliamentary assistant on that.

Mr Owens: Your question is based on some false supposition that you've created in your own mind in terms of the other government. We have not stated that we would withdraw the bill if—

Mr Phillips: Mr Ward said you're proceeding with the bill because premiums won't go up. I assume that you wouldn't proceed if the premiums were going to go up.

Mr Owens: The ultimate decision with respect to premiums, as you're well aware, is up to the Ontario Insurance Commission.

Mr Harnick: Oh, they're going to be the bad guys. Now we're starting to understand.

Mr Phillips: I appreciate the comments. I think we now have the basis on this bill for determining whether it will be withdrawn or not, because I think now if one were to look at the series of presentations we've had, an overwhelming number of them say, "Withdraw the bill, and if there are some minor improvements that need to be made, make them." That's your presentation. As I say, we've now narrowed the focus, and I appreciate your presentation because I think it's elicited from the government members the basis on which they would agree to withdraw the bill.

If it turns out that we are looking at \$200 increases in the premiums, I assume the government would agree to withdraw the bill. So we need to focus, as I say, on that issue, because what I think the car people have indicated quite clearly to us is that, from their perspective, people are hurting out there. A \$200 premium increase to your members would be extremely devastating, and actually your advice is you think the premiums may go up more than \$200. So we've now narrowed it, Mr Chairman, and I appreciate the witness's presentation.

Have we any more time?

The Chair: Yes, you have.

Mr Phillips: In terms of the car rental business, how important are insurance premiums to your industry? I appreciate that you're saying you play a role in tourism, and I believe that. How important are insurance premiums to your industry?

Mr Kenmir: Insurance premiums would be 15% to 20% of our income; 15% to 20% would go out on insurance premiums. Car rentals are a little bit riskier than your own personal car. When I rent a car to someone, they're going to be in a strange car, they've never even driven that kind of a car before, they don't know anything about ABS brakes and they're liable to have an accident. Our rates would possibly increase \$300 to \$400 a year, we estimate.

Mr Phillips: That's helpful, sir.

Mrs Caplan: I'd like to pursue the line of questioning of my colleague, because I believe that's what the essence of this legislation is about and that's what my constituents are concerned about. They don't want premiums to increase. You've told us in a very clear way that if you increase the benefits, as this bill purports to do, if you make the kinds of changes that create the uncertainty that we know this bill is going to do, premiums will increase, that that's just common sense. Is that your—

Mr Kenmir: Oh, sure.

Mrs Caplan: Further, the stability and the certainty created for your industry by the plan in place now, called OMPP, allowed you to lower your rates in the car rental business, and this piece of legislation, Bill 164, as it is presented now, because of the uncertainty within the bill and because of the costs and premium increases, will force you to raise your rates and that will have a detrimental effect on the economy of Ontario. Is that what you're telling this committee?

Mr Kenmir: Definitely. This bill would bring us back somewhat towards the tort system.

Mrs Caplan: So you don't think this bill is in the interests of Ontarians individually, or business in Ontario?

Mr Kenmir: I don't think it is. I've even listened to radio stations where they've had polls and they said 70% don't want it.

The Chair: Okay, fine. We've got to go to Mr Harnick. Maybe he can straighten the record out now.

Mr Harnick: I don't think anybody can straighten a record out, Mr Chairman. I've been sitting here for three days now. I haven't heard anybody come in and say anything about this bill that's, in anybody's estimate, positive.

Mr Owens: How long have you actually been here?

Mr Harnick: I'm just wondering, now that we've been doing this for three days at the taxpayers' expense, bringing all these people in here. We haven't heard a single person say anything positive about this bill.

Mr Owens: That's not true.

Mr Harnick: I've just been reviewing the list and I haven't heard anybody saying anything good about this. I suspect the comment you make about polls and people saying good things about it strikes you as being kind of funny, that nobody seems to be supporting this bill except

the government. Even most of the members of the NDP don't support this bill, just the members of the government who happened to remarkably get elected on September 6, 1990.

One of the things I want to talk to you about—and you've touched on it in your brief—is very interesting. There's nothing in this bill about road safety. We heard from Mr John Bates, the person who looks after PRIDE, People to Reduce Impaired Driving Everywhere, and MADD, Mothers Against Drunk Driving.

He made a presentation yesterday and told us that if the government would start listening to the things he's been asking them to do for the last couple of years, such as graduated licences and a number of other things—changing the drinking age and things of that nature—he thought serious accidents could be reduced by about 10%. You know that serious accidents are the bulk of the moneys put out by insurance companies to pay people for their damages, so if they could institute some kind of plan to reduce serious accidents, we could probably amend the existing bill so that everybody would be happy. Would you agree with that?

Mr Kenmir: I would agree.

Mr Harnick: Isn't it astounding that the government hasn't done anything in that regard? As a member of the public, don't you think that's a rather strange thing?

Mr Kenmir: That should be one of the priorities, really.

Mr Harnick: All right; thank you.

The Chair: Okay, fine. There are just a few comments. You know the Chair doesn't say too much too often, but there are some people down in the area of Lincoln who I represent: Arn Fee from Thrifty. I don't know if you know him or not.

Mr Kenmir: What's his name?

The Chair: Arn Fee, Thrifty rent-a-car and Peter Lumsden from Tilden.

Mr Kenmir: I know Peter, yes.

Mrs Caplan: Is this a commercial?

The Chair: No, it's not. I'm just wondering, because they're friends of mine and I know them quite well. I know one thing they were upset with was the tire tax that came in with the rental industry, but the other thing is, does the industry make any money selling insurance to renters?

Mr Kenmir: It very seldom gets done any more and it's not an insurance. It's called a loss-damage waiver. It doesn't get sold any more. Everybody's got credit cards or the insurance from their own car transferred to the rental car.

The Chair: But for a person walking off the street who didn't own a car and was going to rent one, that's part of the insurance you have to purchase.

Mr Kenmir: If he has a Gold American Express card, Gold Visa or Gold Mastercard, they cover the insurance, so very little of that is sold any more.

The Chair: Okay, fine. It was a few years ago.

Mr Kenmir: A few years ago it was really good.

The Chair: I'd like to thank you for appearing before this committee today. I think you were very informative to quite a few of the members here.

Mrs Caplan: Very helpful; thank you.

Mr Kenmir: Thank you for having me.

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TORONTO TAXI CAB OWNERS AND OPERATORS ASSOCIATION

The Chair: We now have the Toronto Taxi Cab Owners and Operators Association. Would you come forward, please. I'd like to welcome you to the standing committee on finance and economics. We have half an hour, till 5 o'clock. We'll be recessing until 7. You have half an hour's time to make your presentation. If you can, leave some time within that half an hour for questions after your brief. As you can see, the members are anxious to ask questions of you.

Mr Sikko Wiersma: Yes, I can see that.

The Chair: If you wouldn't mind, identify yourselves for the purposes of Hansard and the people of Ontario.

Mr Wiersma: My name is Mr Sikko Wiersma. I'm one of the directors of the Toronto Taxi Cab Owners and Operators Association. With me today is Mr Lawrence Eisenberg. He is the president of the same association. We've been in existence slightly over three years and we've attempting to be proactive in the various areas of our industry to serve the public better.

I've handed out some material. It's in point form. I've discovered in the past that when you hand out a lot of literature it tends to put people to sleep. Members in our industry falling sleep is not a good idea, because they're generally handling 3,000 to 4,000 pounds of steel and plastic on the road.

Mr Phillips: And your premiums go up.

Mr Wiersma: Well, they did go up at one time. Just to follow through on what the previous gentleman said with respect to the rental industry, the taxicab industry has a parallel problem. I was speaking to one of the MPPs here a couple of days ago, Mr Chris Stockwell, who is, I believe, in the car rental business. He confirmed to me that OMPP reduced his premiums in the last few years.

Interjections.

Mr Wiersma: Please, folks, can you cut the chatter? I find that very insulting and disturbing. I'm not a professional lobbyist. We're simple people in a very difficult business in a difficult time. I would appreciate some courtesy from our members of Parliament. Thank you.

The Chair: I have some problems as a Chair at times too. Ignore them. You're talking to me. I'm listening.

Mr Wiersma: I'm not an elected member, Mr Chair. We're simple businessmen. The economy has turned us from businessmen into beggars and we're here begging against this bill.

I must say, to follow through on what Mr Swart, a very highly respected member at one time of this particular government, said yesterday, that whoever designed this bill must have been smoking some old taxi claims and shredded taxi receipts, because this is an absolute piece of trash.

We also have very little respect for the insurance industry, but let's get back to the government's mandate. You people in the government can snicker, but the population out there took you very seriously.

Mr Dadamo: We'd appreciate it if you got to the point.

Mr Wiersma: I am.

The Chair: Mr Dadamo, the gentleman has half an hour. You will have your time when it comes.

Mr Dadamo: I believe he's out of line.

The Chair: No, he is not out of line.

Mr Dadamo: Yes, you've asked him to direct his comments to you. He's not doing so. Now, we'd like you to reinforce that.

The Chair: I didn't hear that; I was signing a piece of paper.

Mr Dadamo: We'd like you to reinforce and open your ears and listen.

Mr Phillips: The gentleman is expressing the view of his association. You may not like what you're hearing, and we may not like some of the things he says either, but he has the complete right to express the views of his organization. Mr Chairman, I think you have to bring them to order.

Mr Wiersma: We represent an industry which employs approximately 14,000 people in Metro Toronto. There are also 15 members of this government—we're sorry about the passing of one of the members last Friday—left within Metro and I would think that we should have the courtesy of a hearing. I would appreciate it.

Let me get back to my personal experience. When I went to Carleton University as a student, two of my professors belonged to your particular political party. One of them was Douglas Fisher and the other one was the late Pauline Jewett. I must say that when I studied political science and economics, I had the highest regard for these people. Even though philosophically I may not have agreed with them, I learned a lot from them. The tradition that was established by the CCF party, with Mr Woodsworth, Mr M. J. Coldwell, whom I met personally, a fine gentleman, and Mr Tommy Douglas, somewhere has been lost—what I referred to earlier—in your election mandate or your promise for public auto insurance.

Getting to Bill 164, Mr Kormos was quoted in a newspaper the other day as saying that the government is dancing in a fog. Our position within the taxicab industry is that the government is dancing in the financial red light district, that this bill, financially, is going nowhere. With the condition of our economy, even people who are unemployed still have vehicles that they require in many areas to go and hunt for jobs. If you increase their premiums, whether it's \$20 or \$200, what you're doing is you're taking away from disposable income that they don't even have, and this is a regressive measure.

The first priority of this bill should be to go back to your Bill 39, the Ontario Road Safety Corporation Act. The legacy of the automobile on this continent, the maiming and injuries and deaths that it has caused since the turn

of the century, is approximately one million people who have lost their lives. In this country last year we lost the equivalent of a 747 planeload of passengers going down weekly.

That's the terrible legacy the automobile is leaving in this country. We have our share of accidents in this province. We feel that the emphasis should be on upgrading road safety and taking preventive measures to prevent accidents. This bill will not prevent one automobile accident and it will not save one life.

The insurance industry has record profits for the year 1992. You people have all the data and the figures. Not one dollar of those profits is being plowed back into road safety or public safety. What we advocate is that there should be a forced proportion of premium funds and profits plowed back into accident prevention.

Going on to the public safety factor, at one time there were governments in this province that took hard decisions with respect to public safety. For example, years ago the government of Premier Robarts reduced the speed limit on the 401 from 70 to 60 miles per hour. They also introduced the seatbelt legislation, and I was amazed at that time how that reduced fatalities and injuries on the roads; the statistical drop was phenomenal. I don't have all that data with me, because that tends to put people to sleep. But the principles were there.

The Ontario motorist protection plan, or this no-fault system, has some faults and it has some flaws, but it has reduced the insurance premiums, as I mentioned earlier, for the car rental industry, and it's also reduced the premiums for the taxicab industry. It's one of the few cost factors that we've been able to reduce in an industry that is financially hard-pressed.

We have 11,500 taxicab drivers in this city, approximately 4,500 full-time and the balance are part-time; 80% of those drivers are recent immigrants. When you impact on a category like insurance, which is our major cost factor next to the purchase of the automobile, then you're going to impact on the rates that the drivers are going to be paying, which will further shrink their disposable income. I spoke earlier about this type of proposal being regressive. What you're doing is you're hurting the people who can afford it the least. If you really boil it down, it's a discriminatory proposal for our industry.

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When I became involved in the taxicab industry in Toronto in 1982, with respect to the insurance industry's treatment of the taxicab industry, we started off as a second-class citizen. I can assure you that this degenerated over a period of five or six years to about a fifth-class citizen. Our industry had insurance cancellations by carriers that were abominable. You have no idea what a horrendous experience it is to have \$250,000 worth of rolling stock like I had and to be dancing with the devil, to have insurance being carried by three different brokers and insurance carriers because if there was a fatality or a loss with the one carrier, at least my whole business wouldn't go down the dumper. However, for one reason or another, the carriers eliminated us.

What I enclosed was some backup material under the old system, and what we particularly want to challenge in

this bill, from a financial point of view, is this \$15,000 deductible. I heard somebody whistling past the graveyard here yesterday, saying that should be reduced to \$7,500.

I've enclosed two claims which involve non-accidents. When I'm speaking of non-accidents, they're both claim payouts. I've included some of the adjusting material and notated one as exhibit 1 and the second one as exhibit 2, where I paid out money in order not to have a loss on my premiums registered with my insurance company. I paid it out personally. This was under the old system, where the slightest scratch or the fear of an incident, as you can see by the material, if you have the time or take the time to read it, would cause a payout. The payouts were approximately \$4,000 each.

I have higher payouts pending, but I can't comment on both of those issues because they're both before the courts and they're in the higher courts. So I can't discuss those particular incidents, but they also deal in an area that I would consider fraud.

Basically, in the old insurance system that we had, everybody was part of the fraud. There's no reflection on the current adjuster in these particular settlements—he did a fine job on my behalf—but whenever there was a collision, the tow-truck operators were on the take, the body shops were on the take, the adjusters and the appraisers, everybody took a piece of the action, and for virtually no damage, we were paying out thousands and thousands of dollars. In total in this province we were paying out millions, and for the insurance companies to pursue this kind of thing, the easy way out was to sock up the premiums. "Don't worry about these things, because you can always sock it back to the premium holders."

Ultimately, one of the best things the Liberal government did was introduce the Ontario motorist protection plan. It has faults, as you can see by exhibit 3. When I went through my old insurance claim files the night before last, a nice stack that high, I just wanted to put it in there for comic relief. I lost a car, the same car I paid out for under exhibit 1, \$4,300 for no damage. It was sandwiched in a rear-ender and the car was a write-off. These things happen, but we were prepared to take those risks.

It had no impact on our insurance rates, and an industry, what I've shown on page 2 is an average. We have about 20 categories of ratings. What we've done is extrapolated the data and averaged it out for leased vehicles, that operate under leases, and separated out the owner-operated vehicles, because those are the two main categories. There was a tremendous difference in insurance rates for those. Without going into the reasons why, you can see that the taxi cab industry was subsidizing other categories in the automotive area.

In 1992, under OMPP, our premiums have been reduced. The profit doesn't look as high, but that's because a lot of the reserves the insurance companies set aside are still outstanding from the old system.

Now, this plan: I would like to address the government on this. I have a feeling of *déjà vu* in this committee room. You people went through a horrendous process, and Mr Owens knows this, on the MVA debate at the end of November, and you people took a decision; not just a

political decision, but you took a decision that this was bad legislation. You bit the bullet and you went through it and I don't think you'll lose any political points. You won't lose one vote in the suburbs for people who are overtaxed, believe me, because their taxes should be lowered.

Let's get back to insurance. You won't lose one political point. Look, I'm not a politician and I don't have to be elected, but it stands to reason that if I'm at a point in the polls where I'm going to be out of a job in two years—the people who are lawyers will certainly benefit from this, because the rest of you will have to find other employment, like the rest of us struggling in the economy. But this bill will just reactivate the claims system, and \$15,000, as I've shown you by my two examples under the old system of paying out approximately \$4,000 for no accidents—there's no damage. Basically, it's fraud, and I'll call it fraud. If somebody would like to challenge me on that and sue me, welcome. We'd be willing to take up that challenge at any time.

What you're going to introduce is another system; it's just that the level's going to start a little higher. But for lawyers and doctors and psychiatrists and whoever else, to start at \$15,000 is nothing. A judge is going to sit up on the bench and he's going to look at someone with a \$20,000 lawsuit struggling up, and he's going to raise whatever the claim is to cover the legal cost, to cover the medical cost and say, "You're going to have a little bit left over," and he'll just sock the \$15,000 on top, and there we are again. We'll be back to the same problem. We'll just be dealing with it at a higher level and everyone will pay.

How much time have I used, Mr Chairman?

The Chair: You've used up 15 minutes.

Mr Wiersma: Fifteen minutes? All right.

The Chair: And unprofessional and with no notes, you're doing real good.

Mr Wiersma: Look, we feel very strongly about this.

The Chair: Mr Wiersma, we hear from the heart, and one thing you have to understand, we're here to listen. This bill hasn't passed.

Mr Wiersma: I understand that.

The Chair: It's not too late. So what you're saying, the government and this committee are listening to.

Mr Wiersma: Are they? I hope so, because I must say—

The Chair: I know you sounded frustrated at the very beginning.

Mr Wiersma: I did because of the crosstalk.

The Chair: But the Chair is listening and most of the committee members are listening.

Mr Wiersma: Okay. We have a horrendous problem economically. I made that point in my notes on page 2: "Our gross revenue decline is 40% on the street." That's on the street. That's for our drivers. Our insurance premiums have only dropped about 20% or 25%, and that's only one cost factor. But to offset that, from 1989 to 1992, the category of licensing-to-our-industry costs has increased from \$2.8 million to \$4.8 million. We have a licensing commission, condoned by Metro council, the same people

who were going to do it to us with MVA, who are doing it to the cab industry. They're going to expand the commission and triple the size. It just passed through management committee two days ago.

I'll just summarize what I want to say. It does come under the Ministry of Municipal Affairs, and someone in this government should have a very serious look at the problems that this industry is suffering at the Metropolitan Toronto Licensing Commission. It smells. The cost factors that we're faced with there are astronomical, and what's going on is a disgrace to this community.

Getting back to insurance, our industry recommends that we allow the OMPP to run another two years. If the government believes there will be no premium increases, put out a separate insurance package—put it out in the marketplace or have a government-run package—and put those benefits out separately. If you believe there's no premium increase, the insurance industry will pick that up separately, and it'll run with it. But I would doubt if you'll get one taker.

Let's get to the benefit changes and the deductible proposal. Whether it's in the public or private sector, it doesn't make much difference, I think. It appears to be an exercise in political futility. It's a financial disaster that's going to come, and everyone in this province who drives a vehicle is going to pay. What we recommend is that you scrap this Bill 164 and embark on a program of accident prevention. Let's prevent the accidents from happening. Let's get on to a program of road safety. You people have all the data; you don't have to re-examine your navels to do this. The material is there. The Ministry of Transportation has the material. With all this stuff that our tax money is paying, why don't you people use them? Make these bureaucrats accountable to you. We're paying the shot as taxpayers, but you people are responsible, as legislators, to do this in the interest of the community.

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As the last thing, I don't think we can emphasize strongly enough that within Metro—I know it doesn't apply across the province—public and mass transportation has the best safety record. They don't have the accidents if we can get people out of the cars, on to mass transit and on to mass transportation—trains, buses, trolleys, whatever we can use, GO trains—get them out of the automobiles. The safety record of our GO system is phenomenal compared to Amtrak in the US. I think these people should be commended. That's the type of program this government should be busy with, instead of trying to reinvent the wheel. There has been six studies done in the last six years on insurance. How many times do you want to reinvent the same wheel?

That's all I have to say. Do you have any comments, Mr Eisenberg?

Mr Lawrence Eisenberg: Yes. Basically, what we're talking about is we delivered 30 copies of the bill and regulations to owners and drivers. We asked them to instruct us about what to do. Without fail, they returned the documents to us, each of them saying two different things: "What is this?" and, "We can't understand it." If a working-

class person can't understand the legislation enough to tell us what he feels, how can you implement it? That's the bottom line.

The Chair: Mr Mancini, three minutes.

Mr Mancini: When the subcommittee decided to put the Toronto Taxi Cab Owners and Operators Association on the list of witnesses to be heard, we thought at that time that we would be hearing from an interesting group of people and hearing an interesting view on automobile insurance. You've more than lived up to our expectations. I think we've heard from you things that we have not heard from other witnesses, important things. For example, I don't think many of us knew—we maybe assumed—that rates were in fact out of control for you pre-OMPP. We knew that the OMPP had dropped your rates, but not as dramatically as you have shown us today.

The other thing I would like to comment on is the fact that you're willing to work with the government and allow changes to be made, but only after a necessary time period has elapsed and appropriate study has been done. Your suggestion that we allow the OMPP to work for a couple of years to see what other wrinkles might be in the bill that need to be ironed out or fixed up is, in my view, a very positive suggestion.

You've dramatically shown us in your statistics that people in the taxicab business have taken a big hit as far as income is concerned. One point I'd like to make is that this morning we had the Ontario Federation of Labour before us. I was mentioning to the gentlemen and to the committee that if we took only the government's opinion and studies and advice from their consultants, rates were going to go up a minimum of 4.5%. Other people said as high as 20%. I believe the answer was something like: "That's all abstract. We don't know if that's going to happen."

Mr Wiersma: It's not abstract to us.

Mr Mancini: That was going to be my question. You've studied the bill, you've looked at it. Do you think that Mercer's comment and conclusion that rates would go up 4.5% is abstract? Coopers and Lybrand's conclusion was that it might be, I think, 20%. I believe Wyatt was 13%. We go from a range of 4.5% all the way up to 20%. Do you think that's abstract and some kind of fairy tale?

Mr Wiersma: It's a fairy tale and voodoo financing because you cannot anticipate the litigation and the lawsuits that are going to result from this bill. The insurance companies, as soon as there's a frequency, they put a loss reserve aside. In my data you can see there are not necessarily losses. That money is in reserve, although as soon as you put a loss reserve aside, the insurance company hits the premium holders and they hit everyone, but they'll hit a specific category harder than others. I know that part of the proposal in the bill is to eliminate discrimination, but the taxicab industry has been discriminated against in premiums previously. The treatment of us by the insurance industry has been appalling. It's a separate issue.

Mr Mancini: So your conclusion is that rates are going to go up?

Mr Wiersma: Definitely, yes.

The Chair: Mr Mancini, I'm going to have to go on to Mr Harnick.

Mr Harnick: Sir, have you been a cab driver yourself?

Mr Wiersma: Yes, I've been on the street myself.

Mr Harnick: For many years, I'll bet.

Mr Wiersma: Approximately 10 years.

Mr Harnick: I note your comments that you like the OMPP, and I suspect that one of the reasons you like that is because it gets rid of a lot of what you perceive to be the small claims.

Mr Wiersma: The nuisance claims have been eliminated, and what I put in my exhibits, the fraudulent stuff, what we considered the old fraud, the money-wasters.

Mr Harnick: Just so I understand you, you don't believe there's anything wrong with an innocent person who's seriously injured having the right to make a claim. Is that correct?

Mr Wiersma: Of course.

Mr Harnick: That's trite, isn't it?

Mr Wiersma: It's not trite. A person who is seriously injured deserves to be recompensed for whatever his losses are, whether it's pain, suffering, physical disability, rehabilitation, loss of income, if it takes 20 years or 50 years or whatever. Definitely.

Mr Harnick: That's something that's obvious to one another as human beings, isn't it?

Mr Wiersma: Definitely.

Mr Harnick: I just don't know what your circumstances have been in terms of your driving a cab, but I gather you've seen the odd personal injury accident first hand.

Mr Wiersma: Quite frequently.

Mr Harnick: You may have even been involved in some of those yourself.

Mr Wiersma: No.

Mr Harnick: You've never been involved in a personal injury accident yourself?

Mr Wiersma: No, sir.

Mr Harnick: Or been injured yourself.

Mr Wiersma: No.

Mr Harnick: But you've seen what happens to people in car accidents.

Mr Wiersma: Yes. I have accident files for my taxicabs at home this deep.

Mr Harnick: And the ones where people suffer serious injuries are pretty significant claims, aren't they?

Mr Wiersma: Generally, yes.

Mr Harnick: People go through a lot of agony when it happens.

Mr Wiersma: Certainly.

Mr Harnick: You've seen cab drivers—because I know, I've acted for a number of cab drivers who have been seriously injured in accidents—who can't work. Correct?

Mr Wiersma: Certainly, yes.

Mr Harnick: You would agree with me that in terms of a good insurance bill, someone should be able to claim for his actual economic loss that his no-fault benefits don't pay.

Mr Wiersma: Unquestionably.

Mr Harnick: Sure. So you don't have a problem with that and it's the nuisance claims, the small, little claims that we're happy to get rid of, out of the system.

Mr Wiersma: That's right.

Mr Harnick: And that's in fact what the deputy minister said yesterday, that the purpose of the \$15,000 deductible was to get rid of the small claims. Correct?

The Chair: Mr Harnick, I've got to go on to Mr Winninger.

Mr Harnick: All right, thanks.

Mr Winninger: I certainly travel public transit whenever I go back and forth to my riding, and I ride in a lot of cabs. I'm aware of the challenges that cab drivers face right now.

To come back to OMPP for a moment, I stopped practising law in September 1990 and I still get calls from old clients, constituents and other people complaining about the fact that they fell through the cracks of OMPP. There's a lot of bitterness out there surrounding it. I think there is, to come back to an earlier point, a constituency out there that would like to see improvements in the OMPP.

I'm aware of recent case law which has opened up the right to some extent to sue for serious and permanent injury, which would probably have some upward pressure on existing rates under the OMPP. I'll tell you quite frankly—and I'm approaching a fairly fundamental question here—in August 1991, 800 insurance agents, brokers and employees demonstrated outside my office in London and said they didn't want us to take over auto insurance and make it public because they could achieve better premiums, they could achieve better benefits and a better rating system if it were left to regulation by the ministry. Now we've made some modest changes to improve the benefits and to control premiums and to improve, hopefully, the rating system, and the insurance companies—

Mr Wiersma: Is there a question?

Mr Winninger: Yes. The insurance companies are saying that the rates will go up. Your concern seems to be with the cost of claims. I would ask you, what provision do you have for independent or employed taxi drivers that would ensure, whether they're at fault or not, that they'll be adequately provided for if they have the misfortune of a collision that causes fairly serious bodily injury?

Mr Wiersma: The OMPP has made provisions for the loss of income. I think that the \$600 cap more than adequately covers the money that the cab drivers are making now. I don't want to go into those types of data at the present time, but let's backtrack to the old system and this carnage on the roads that I described before, when you would drive along and you would see the back of a bumper that said: "Go ahead, hit me. I need the money." That's a pretty disgusting thing to have on automobiles. As a matter of fact, you people should legislate that kind of

levity off the roads, because there have been too many fatalities and there are too many paraplegics in our trauma centres. That kind of attitude is disgusting.

As far as the insurance brokers and the insurance people demonstrating, when I studied the economics of insurance at university, the first statement my professor made was, "Insurance, the definition: a lot of people pooling small amounts of money to offset a large loss." The insurance industry basically is a parasite industry. As far as I'm concerned, they're non-productive. They certainly don't measure up to lawyers.

Mrs Caplan: We know where the lawyers are.

Mr Winninger: I speak kindly of cab drivers.

Mr Harnick: You're not going to start picking on politicians, are you?

Mr Wiersma: Of course not. Look, we only do that at the time we mark the X, and that's basically why we're here today. Our drivers speak to, say, 20 passengers per day on a 10- to 20-minute, one-on-one basis, and politically they're generally fairly knowledgeable. Although they may be complacent at times, they do speak, in Metro, to about two million impressions a year. Some of them are tourists but we have no tourists left, so they're all the local people now. If you do something detrimental to the cab

driver, believe me, I think it may have an adverse effect in the polls.

Getting back to the insurance brokers and the agents, I don't think that British Columbia fell apart under a public insurance system and I must commend—I'm not philosophically a socialist, but when I spoke to Councillor Moscoe the other day I said, "Could you come and confirm how bad our industry's problems are in this city?" because he's very familiar with them. He said: "Sikko, frankly, I don't want to go. I don't know anything about insurance." I admire an honest politician, and this bill proves to me that you people also know nothing about insurance.

Mr Winninger: That wasn't the answer I was looking for.

The Chair: I see the little beep up there. I see the little beep on the corner of the TV telling me that it's 5 o'clock, and the crew up there are telling me that the time is over until 7 o'clock. I'd like to thank you for coming before this committee. If anybody has said you didn't give a professional brief there, they're wrong, okay? Thanks for coming.

We'll resume the hearings at 7 o'clock tonight. This committee is recessed until 7 sharp.

The committee recessed at 1704.

EVENING SITTING

The committee resumed at 1859.

The Chair: Good evening. This is the standing committee on finance and economic affairs. We're on Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters. This is day 3, the evening session. We'll be here from 7 until 9:40 tonight.

UNITED SENIOR CITIZENS OF ONTARIO

The Chair: I'd like to welcome the first group, which is the United Senior Citizens of Ontario. You'll have half an hour. In that half an hour, try to save some time after your brief for questions from committee members here. They're usually anxious to ask questions. If you don't mind identifying yourself now for the purposes of Hansard and the people of Ontario, you may go ahead.

Mr Alex Mansfield: Mrs Jane Leitch is president of the United Senior Citizens of Ontario. Mr John Atto is our consultant from the auto association. I am Mr Alex Mansfield, past president of the United Senior Citizens of Ontario.

We wish to thank you for the opportunity to present our views to you on the proposed automobile insurance Bill 164. The United Senior Citizens of Ontario is an organization representing over 1,000 senior citizens clubs. The membership is estimated to be in excess of 300,000 retired persons. The mandate of the organization is to better the quality of life for senior citizens of Ontario. We have tried to be positive, constructive and realistic in the preparation of this brief.

Before getting into Bill 164 itself, we thought we should give the committee some background on the reaction of our members to the last changes in automobile insurance. Quite frankly, the reaction has been minimal. This supports our view that the current system offers significant benefits to seniors and should not be changed along the lines of the proposed legislation.

For example, we have received very few complaints about the present method of claims handling, either for bodily injury or property damage. Improved claims handling and efficient delivery of accident benefits appear to be direct results of the current legislation.

Another benefit to seniors has been premium stability. As you recall, premiums had been rising because of increasing claims prior to 1990. Obviously, our members have been pleased with the stability in the last two years. With this in mind, we certainly question the need for any change in automobile insurance. We suggest that, instead, this government undertake further review and replace this bill with a bill that offers a better balance between enhanced benefits and costs.

We will break down our comments into the following areas: indexing, retirement at 65, compensation for people close to 65, care givers, cost, the future and possible solutions.

Indexing: We note that Bill 164 allows for indexing of benefits for those who are employed at the time of an

accident but not for those who are retired. We simply cannot understand how any government or bureaucracy can decide that inflation affects employed people but does not affect retired people.

Retirement at 65: Bill 164 seems to have unilaterally decided that the proper age for retirement from the workforce is 65. This is an issue that is presently the subject of much discussion, not only with the public in general but also our membership. While many arguments could be made pro and con on this subject, we do not feel this should be enshrined in Bill 164 or any other legislation until mandatory retirement has been dealt with on its own.

Compensation for people close to 65: Keeping in mind our objections to the arbitrary use of age 65, we would point out that there is an apparent contradiction in Bill 164, that being that people who are injured when they are one day less than 65 and working will receive substantially less benefits than those who are one day more than 65 and working.

For example, if a working person is injured one day before he turns 65, the bill assumes he will retire at 65 and therefore will be entitled to \$185 per week. If the same person were injured two days later, when he was one day older than 65, if he were still working, he would be entitled to full benefits which would be scaled down over four years. We feel this is rather an easy thing to correct and would suggest you do so. Mr Chairman, I will turn this over now to our president, Mrs Leitch.

Mrs Jane Leitch: Care givers: When people grow older, unfortunately sometimes they change from healthy individuals to people who require daily care. This care is most often provided by their spouse. The problem with the care giver section in Bill 164 is that it simply does not recognize that an individual could be seriously injured in a car accident and then some time thereafter his spouse could require his assistance and no compensation would be available under the care giver section.

We appreciate the thought and effort that went into the care giver section, but would point out that drafters of legislation such as this must stop and think about the special needs of seniors. In this case, it is not good enough to simply look at the economic loss involved for people who are dependent on the injured individual, but you must also consider those who may be dependent on them in the future. We realize the many difficulties associated with the open-endedness of changing this provision, but would suggest that changes could be made with some reasonable sort of time limitations.

Cost: When looking at cost projections presented to us by various organizations, including the government of Ontario and the Insurance Bureau of Canada, it has become apparent that largely due to Bill 164, our members will see automobile rates increase between 4% and 20% next year. Regardless of who is right or what the final outcome will be, rate increases of 4% are totally out of the question. If in fact we have rate increases as high as 20%, we are sure we will go from situations where we receive

very few complaints about automobile insurance to a point where this is the number one complaint from all our members.

Many times we hear from governments that an independent senior is a benefit to our society. Any form of increased costs to people on fixed incomes will force some of these people to change from being independent to being dependent.

Many organizations now rely on the high number of volunteers who are seniors to see that individuals they serve get the service they need at a reasonable cost. Most of these volunteers rely on their automobiles to function. We have heard in the past from such people as Meals on Wheels that automobile rate increases in excess of inflation will substantially reduce the number of volunteers they have. Quite simply put, we can't see the reason for, nor can we afford, the rate increases brought on by Bill 164.

The future: When Bill 164 was put together with The Road Ahead: Ontario's Strategy for Automobile Insurance Reform, we found ourselves extremely concerned about the direction that's being taken with automobile insurance. In the past, we have been faced by other governments with plans calling for uniform classifications, a fair rating system and the unfair use of age as a rating criteria. We note with disappointment that this government is once again going in this direction.

In the past, when the net result of these changes has been determined, our members would have been faced with rate increases as high as 45%. We see no reason why if we go down that same road we won't be ending up in the same place. As Albert Einstein said, "Those who repeat the same experiment expecting different results are doomed to failure."

To reiterate, it's our strong belief that Bill 164 and The Road Ahead will result in rate increases of 45%, or even higher, to our members. Once again, we're strongly stating our objections to this bill and are very concerned that the objections will fall on deaf ears.

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Possible solutions: We can only see the following solutions to our present dilemma:

Do not implement Bill 164.

Reduce the benefits in Bill 164 in order that rate increases will not be necessary due to it.

Allow certain things, such as higher weekly indemnity limits, care givers' coverage, indexation etc to be optional at an increased premium. This would allow Ontario residents to purchase a basic product at the same price as they're paying today, and if they wish to then buy the additional frills, they can do so.

Our conclusion is, since we can find no benefits in Bill 164 for seniors in the province of Ontario and its implementation is going to result in substantial rate increases for our members, we have no choice but to strongly state to this committee that Bill 164 is a bad deal for the seniors of Ontario.

Again, on behalf of the United Senior Citizens of Ontario, I wish to thank you for this opportunity to participate in this very important discussion.

The Chair: Okay, Mr Jackson, you're up first.

Mr Jackson: Does that complete the deputants' presentation?

The Chair: I believe so. That was the conclusion.

Mr Jackson: Very good. First of all, Mrs Leitch, Mr Mansfield, welcome to Queen's Park. We're delighted to have you here today. As always, we appreciate your presentations.

At the outset, is there anything in this bill that you can agree with or that you find any merit in?

Mrs Leitch: I suppose there are always some benefits to us, Mr Jackson. They did add something about care givers that was something we asked for when we met the minister before, but it hasn't really gone far enough to cover our concerns, and he did tell us at that time he would look into that.

Mr Jackson: Had your legal counsel prepared any language of any amendments or any strengthening of that section that you recommended, any wording that could be helpful to the committee?

Mrs Leitch: Would you like to answer that, John, please?

Mr John Atto: Yes. I guess I'm insurance counsel, not the legal counsel. The situation would seem relatively simple to us in the question of the problem at 65 and what happens at that date, and that's simply words to the effect that you would get the greater of the two, because we do accept the fact that Bill 164 does restrict coverages in regard to people over 65 when that wasn't done before, but there is that problem.

In regard to the care giver section, the main problem we see is the length of time after the accident for someone else to find the problem. We would suggest it's just a simple question of putting a limitation in, like three years.

I don't think either one of them are legal problems. I think once the logic is there, the rest should be there.

Mr Jackson: Mr Chairman, has the government the benefit of any legal counsel on the questions raised by United Senior Citizens of Ontario? Essentially, they're raising legal questions.

The Chair: Is legal counsel here? Okay, what's the specific question?

Mr Jackson: The deputants have raised questions about the discriminatory nature of the 65 threshold and the presumption of retirement and the working/non-working component which is tied to age. Those are legal questions. There's been some recent court cases in Canada and in the US on this, and I just wonder if legal counsel has commented on the sections which the deputants have raised, because those are legal questions.

The Chair: Okay, Mr Owens.

Mr Owens: In a recent decision—if the member for Burlington South would like, I can get a definite date—the Supreme Court of Canada has ruled that 65 is constitutional with respect to retirement age.

In terms of what the member views as a discriminatory action against seniors, the auto insurance process is set up and designed to act as income replacement, and if the

mandatory retirement age is pegged at 65, there's a fairly reasonable assumption that—

Mr Jackson: Mr Owens, without selling me on the concept, a member of your own caucus raised in private members' time—

Mr Owens: That's not the issue here.

Mr Jackson: —the removal of 65 as a mandatory age of retirement, which most members of the House—and I was present and participated in that debate—supported. So a majority of your own caucus members support the principle of not discriminating against seniors at age 65, yet your own government has now presented it in legislation and you're reiterating that as a position.

Mr Owens: The issue is not what caucus may or may not have agreed on and what may or may not have occurred during a private members' hour. The bill is based on what is currently in law, what has currently been ruled on by the Supreme Court of Canada.

Mr Jackson: So what you're saying is, when there's a private members' bill suggesting—and the majority of members of the House, of all three political parties, agree—that seniors should not be discriminated against on the basis of age, that you, your party and your Premier are going to extend that discrimination in spite of the voices of the majority of the members of the provincial Legislature, when we stated very clearly, in an open forum, in a democratic forum that we should not be discriminating against seniors. Your Premier is going to fly in the face of those kinds of public decisions that were made and suggested in private members' hour?

Mr Owens: Again, the issue under discussion here today is not whether, constitutionally or philosophically, I or the Premier agree that mandatory retirement age should be 65, or in fact whether we should have a mandatory retirement age. The issue that we're here to discuss today is Bill 164 and the enhanced benefits that will be provided under that legislation.

Mr Jackson: How much time do we have left?

The Chair: You've got about 30 seconds left now.

Mr Jackson: Mrs Leitch, earlier today State Farm Insurance tabled a document, and I would like to furnish you with a copy of it as well because it sets out its projected costs for Ontario's seniors. It's frightening. We're looking at a 24% increase for seniors in the Metro Toronto area and the greater Toronto area, where they incidentally pay a higher fee for their licences as well.

Have you had an opportunity to examine these numbers? You mentioned a higher number but these are actuarially accurate. We would assume around 24%, 25% for your average members on a fixed income, when the government is suggesting that seniors should live independently in their homes, rely on a family member as a care giver, usually of the same age. How are you going to survive if your automobile costs are so prohibitive by virtue of the insurance costs?

The Chair: I'm going to go to Ms Haeck.

Mr Jackson: You're not going to let the deputant respond, Mr Chair?

The Chair: I—

Mr Jackson: I'll respect the Chair. It's your practice to cut off—

The Chair: Okay, go ahead if you can make a short response and we'll go on to the next question. I think you were making a statement there more than anything.

Mrs Leitch: We have a position on this and I think Mr Atto will answer.

Mr Atto: There is no question that 4% is a problem, let alone 24%, and then I think we feel very strongly that the 24% is ultimately, when taken with The Road Ahead, too low. We feel strongly that the number is 45%. This was done five years ago, and when it was all said and done and we got to the final numbers that were produced actuarially, we were faced with increases between 42% and 47%. So obviously we can't handle 4%. How can we handle 24%?

The Chair: Okay. Ms Haeck.

Ms Haeck: Yes. Thank you very much, and I do appreciate your coming out and giving us your views. I did want to make mention of the fact and at least respond in some part to what Mr Jackson has raised. I think we have what's called the battle of the experts, because the range of actuarial costs they have provided us is still, shall we say, a wide range. When the plan really comes into effect we'll be able to determine what in fact the true cost is.

We had the Quebec plan here this morning. They indicated that really, the kinds of benefits they're offering and what we're proposing to offer—and they've had theirs now for about 14 years—the cost factors are not unwieldy, and in fact it is much more on the lower end of the scale than whatever the Wyatt and Coopers and Lybrand studies have suggested.

Are you aware that the current system is under some pressure, in fact, to see increases which at this point are undetermined, which would be far in excess of what the industry is projecting?

Mrs Leitch: Yes, I'm aware of them.

Ms Haeck: You are?

Mrs Leitch: Yes.

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Ms Haeck: Thank you. Are you aware that the government put something like \$133 million into the home care budget during the fall to assist care givers in the homes so that with regard to disabilities there are additional home care services available to individuals like yourself?

Mrs Leitch: Yes, we're aware of that.

Ms Haeck: So that in fact some of your concerns related to the care giver sector might be allayed?

Mrs Leitch: It hasn't been indicated to us that they will pick up the difference there, that they would step in. I doubt it.

Ms Haeck: I believe if a doctor is prescribing home care, you would qualify.

Mrs Leitch: Well, that may be true. Do you want to comment?

Mr Atto: The problem that we're talking about in the care giver section is that to get care givers' benefits, at the time of the accident you must be taking care of someone. That we appreciate and that, I think, is a benefit. The problem we look at, and we know it can't be open-ended, is that when you're dealing with a husband and wife who are retired, quite often one of them gets ill and needs the help and that's the one we all expect to help them.

We are concerned that where one of the individuals is involved in an accident and at that moment the spouse is healthy and then, six months or a year later, they get ill and they're still claiming benefits under the policy, they would be the one that you would expect to help them, but they couldn't qualify for the care giver section. So all we're really asking for there is: This is something that could happen. Can we have something that says three years or five years, as long as the person who's injured in the accident is still collecting benefits? That's really the only problem we have with the care giver section.

Ms Haeck: I think that requires some more discussion and clarification and I appreciate that. You're happy with the kind of rehabilitation services that are being provided under this new bill?

Mrs Leitch: We haven't, at this point, received any complaints about that particular issue.

Ms Haeck: Since it basically kicks in almost immediately, it would really assist the person who is injured.

Mrs Leitch: Well, if it would come in, yes, definitely.

Ms Haeck: You've basically indicated in your brief that overall you felt that OMPP was generally satisfactory, but are you aware of any court cases that your members might have initiated and the kind of settlements or problems that may have arisen because of having to deal with the courts?

Mrs Leitch: We're stating in this document that we have not had a lot of complaints in the system as it exists now. We see some problems with the changes.

Ms Haeck: The fact that people could possibly be taking pain-and-suffering cases in a way that was not allowed under the original plan: Do you see that as an asset?

Mr Atto: I think that, to sort of answer both questions: Number one, the present system is bringing very few complaints from the members and not in the area that you're discussing. There are some benefits here. We're certainly not suggesting that there aren't benefits. The United Senior Citizens of Ontario last time supported the system because we felt that it would stabilize rates. Even though we didn't like the set of circumstances where the right to sue was being taken, the United Senior Citizens had decided that the overriding need, right at this time, for its members was to keep rates stable.

We're not suggesting that there are not some changes that could be made. We're not suggesting, to tell you the truth, that there aren't some changes that are benefiting it. It's just that it has to get back to the situation where the net result of this does not add to rate increases. We know we're going to be faced with rate increases of inflation

whether we like it or not under any system, but we can't afford any more.

The Chair: We've got to go on to Mr Mancini.

Mr Mancini: Mr Mansfield, Mrs Leitch, thank you so much for coming before the committee to speak on behalf of the United Senior Citizens of Ontario. Have you been following the committee proceedings?

Mr Mansfield: To a point.

Mrs Leitch: Not all of it.

Mr Mancini: I want you to know that you've said many important things this evening. Some of the items you've emphasized have been touched on by other presenters, not in the same way, and I should say I believe you've left us with quite an impression, at least myself.

Members of the government started today for the first time to say that there might not be any rate increases. I was quite surprised to hear that, because their own consultant stated that rates would go up 4.5%. On your behalf, I'd like to ask the parliamentary assistant who is here representing the minister whether or not he could clarify that for the senior citizens of this province and whether the minister believes there will be rate increases as a direct result of Bill 164.

Mr Owens: To clarify both issues, first of all, members of the government did not say there would not be a rate increase.

Mr Mancini: Mr Johnson said it today.

Mr Owens: I'm surprised at Mr Johnson. Second, in terms of the determination of rate increases, as you are well aware—I've responded to you on this question earlier today—

The Chair: Excuse me. Can you hear what he's saying?

Mrs Leitch: Not very well.

The Chair: Have we got some of these interpreters? Have you got one in front of you?

Mr Mancini: Couldn't we just turn up the mikes?

The Chair: We're getting feedback.

Mr Mansfield: We have an awful lot of conversations going on that are sort of interfering, especially when the lady here was asking the questions. There are too many other people talking.

The Chair: I have the same problem. I put this ear-phone in because I have a hard time hearing at times. I can't put them all in corners.

Mr Owens: Testing, one, two, three: Is that any better?

The Chair: I can hardly hear him, and he's next to me.

Mr Owens: I don't like to shout at my colleagues. On the first issue with respect to your comments around the government claiming there'd be no rate increase, no member indicated that on the government side. Second, in terms of the premium increases, there are two issues involved. First, the Mercer report talks about a systemic cost, not a per-premium rate increase. Second, if in fact premiums are to be increased, they will be judged on a company by

company, case by case basis. There will not be a blanket increase, if in fact there is an increase.

Mr Mancini: That's the exact point I'm trying to make. The parliamentary assistant ended by saying, "If in fact there is an increase." We've had a lot of other important questions asked by individuals and organizations, and the government responds by saying it's appointed some committee that's going to do some work later on. They keep trying to sweep everything under the rug.

I'm quite impressed by just how up to date you are on what's happening here, because you've got the numbers right down. You are accurate. The senior citizens of this province are going to be hammered financially because of Bill 164, and there isn't a government member sitting in this room who can give good justification why senior citizens will have to face what I consider to be a regressive tax just for having the privilege of driving. Senior citizens in Toronto will have a 24% increase in their insurance rates, in Sudbury it's going to be 21%, in Windsor it's going to be 23%, in Ottawa's it's going to be 22%.

Mr Johnson: Who says?

Mr Mancini: I predict that thousands—not hundreds but thousands—of your members will be calling you soon after this government proclaims Bill 164. Further, I'd like to state the following: You know and I know that this government has reduced the number of drugs available at no cost to senior citizens because it has no money to pay for them, and is making senior citizens pick up the cost of those drugs. At the same time, these people have the temerity to tax—

Mr Owens: Mr Chairman, this is not pertinent.

Mr Mancini: You see, this gentleman keeps interrupting me. Does the parliamentary assistant have a point of order?

Mr Owens: On a point of order, Mr Chair: The issue under discussion here, first of all, is Bill 164, auto insurance. It is not a discussion—

Mr Mancini: I don't need to be lectured by the parliamentary assistant.

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The Chair: I don't believe he's out of order if he wants to spend his time talking about everything else but the bill.

Mr Owens: I would ask the Chair to ask the member to keep his comments to—

Mr Mancini: I don't need to be lectured by the parliamentary assistant, who hasn't even been in the Legislature more than two years, about what's parliamentary and what's not parliamentary.

I want to know from the government what it's going to do to protect senior citizens who are living on fixed incomes, who are having their drugs declassified, no longer being paid by OHIP. When it doesn't have any money for that, I want to know from the government why it can hammer senior citizens another \$200 to \$400 a year just for the privilege of driving, with no added benefits. That's the question these people have come to hear. That's the question they want answered.

Ms Haeck: Would he like an answer?

The Chair: I'm sorry, but time is up. It's a pleasure having you here for the half-hour. There are different points of view, and if you watch a little longer, I think you'll find that everybody has a different opinion on this subject. I hope you'll be able to follow the rest of the hearings. Thank you for appearing before this committee.

Is Mrs Ann Dagleish here? No?

COALITION OF MOTORCYCLE ORGANIZATIONS

The Chair: I'd like to welcome the Coalition of Motorcycle Organizations. Would you mind identifying yourselves for the purpose of Hansard and for the citizens of Ontario. I know Mr Allan Johnson; introduce your colleagues.

Mr Allan Johnson: The coalition is a group formed as an umbrella council to provide input to government agencies and commissions on insurance. We've been active for the last six years. With me is Mr Bob Ramsay of the Motorcycle and Moped Industry Council, which is the trade organization for importers, manufacturers and distributors of motorcycles and equipment. Also with me is Mr John Cooper of Cycle Canada magazine, the largest publication of this nature in Canada; his subscription list is about 20,000 motorcyclists in Ontario. In the audience, too shy to appear, are representatives of the Canadian Motorcycle Association, the Ontario Road Riders Association and the Bikers' Rights of Ontario. They're also available to answer questions.

The Chair: We've got one more seat if one of them wants to come forward or if someone else has to come up. We're ready to go; we've got until 8 o'clock. If you can, leave some time at the end of your brief for questions from the committee members.

Mr Allan Johnson: The submission has been distributed, and there's a second submission from the Motorcycle and Moped Industry Council on the financial impact, as well as the combined brief on the complete situation. I will briefly go over a few of the important points, and then we'll take any questions you have.

Over the six years we've been active in dealing with the insurance question, all the way from the Osborne royal commission, through the Ontario Automobile Insurance Board hearings, through the no-fault hearings, through Bill 68 which brought in OMPP, through discussions with the Ontario Insurance Commission and the review project, several advances have been made in the provisions of motorcycle insurance for which we are certainly very grateful to all levels of government.

One in particular is the extension of accident benefits of the same level as for car drivers and passengers. This is not common, particularly in the United States, where motorcyclists are left without any accident benefits coverage in many states.

In order to make that extended accident benefits insurance cost bearable to motorcyclists, Justice Osborne proposed, the insurance board confirmed, and Bill 68 brought in the loss transfer clause. We understand that this has not been altered, although it is not clear from the draft regulations. It's

section 9 of Ontario regulation 664; it's also dealt with in section 275 of the existing act. What it means is that in an accident where a motorcycle and a car collide, where fault is with the car, then any accident benefits over a \$2,000 deductible are paid not by the motorcyclist's insurer but by the car insurer; in effect, it transfers the loss, the fault, to the at-fault vehicle.

This was Justice Osborne's concept to give motorcyclists a break, because they are very little likely to cause damage to anybody else in a collision. All our calculations on the cost impact, which I will get to in a moment, are on the basis that that loss transfer will continue; in fact, we do wish to see that \$2,000 deductible dropped. That has made a substantial difference in the cost. We have discussed this with the actuaries of the insurance commission.

We have several amendments we are proposing. One is in the area of this accident benefits clause. We have done an estimate based on extrapolation from the Mercer study and the Wyatt study, one produced for the Ministry of Financial Institutions and one produced for the Insurance Bureau of Canada, as to the price impact. Those studies dealt with potential automobile increases. We've translated those to an impact on the motorcycle. Our best estimate, if you use the Wyatt estimates on the impact of the changes, is that under the proposed Bill 164 and the scale of benefits, the required premium increase for a basic motorcycle policy will be in the range of 21.6% to 28.4%. We quote a range, because there are several assumptions; we only have one and a half years of experience with the OMPP extended scale of benefits. If we look at the Mercer calculations, it looks like a required premium increase would be in the range of 12.9% to 19.3%. These are for the first full year of the new system and are based on the current level of transfer of accident benefits.

Either of these ranges are greater increases than we have had in any year since 1977; I went back that far. Increases have ranged from minus 0.1% to 12%, with an average over that 15-year period of 5.9%. Either of the ranges that appear to be going to occur would create considerable hardship in the current economic climate.

One of the things we would see is an increase in the number of motorcyclists who are riding without insurance. This has increased in recent years, according to figures supplied by the insurance commission to us just recently. In 1988, 6.9% of injured motorcyclists were not insured; in 1990 it was up to 9.4%. We would think it would be higher when premiums rose to that extent.

We do propose an amendment to remove the \$2,000 deductible currently required by the Insurance Act, subsection 275(3). If that clause which reads, "No indemnity is available under subsection (2) in respect of the first \$2,000 of no-fault benefits paid in respect of a person described in that subsection," were removed, it would reduce the required premium increase, according to our calculations, by about 5%. That's the price impact. That's still a higher price impact than the average increase we've had each year over the last few years. We think any further amelioration is in the government's hands as to changes in the scale of benefits or some other mechanism.

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If price controls are considered, what we saw in the late 1980s, when price control was brought in while the system was being reformed, was that the insurance companies have several ways to deal with this limit to their price increases. Generally, they try to get out of the insurance business. They restrict their underwriting or they try to restrict the provision of benefits and become slow or absent payers. The third option, of course, is that they just simply eat the costs and live with them, but I don't think that's likely what's happened.

The next amendment we'd like to propose is concerning the issue of tied selling. We've had discussions with the insurance commission over the last two years on this business. Tied selling basically is when an individual walks into an insurance agent and asks for motorcycle insurance and he or she is told: "We have to have your car insurance or your house insurance as well. We won't write just motorcycle insurance." A variation on this is, "We'll write motorcycle insurance," but what they offer you is a Facility policy at about twice or more the rate of what you probably should be rated at if you have a good record.

While the proposed changes in the act do change slightly the wording of the clause under section 438 that makes this an unfair and therefore illegal practice, we think there should be an additional amendment to make the offering of a Facility policy an unfair practice as the person is not a high risk. The government has been trying to depopulate the Facility as far as automobiles are concerned. We think that many motorcyclists are now referred or threatened with a Facility policy in order to get other business from them. That shouldn't happen. We need a level playing field.

On our third amendment, often when you go in to buy motorcycle insurance you are rated not on the objective basis of your driving record or your claims history but on such things as make, model, size and type of motorcycle or even the visual profile of that motorcycle. Some people have been rated on what they're wearing or how they look. This is the kind of economic discrimination that has resulted in certain companies having what they call blacklists. Certain makes and models of machine will not be covered at all. Unfortunately, many of these machines are some of the safest machines made.

A classic example we brought to the attention of the insurance board a couple of years ago was the BMW K1 motorcycle. It had anti-lock braking, the first production motorcycle to have that, and yet Jevco, the largest underwriter, wouldn't touch it. Why? Because it had a fibreglass body or something, yet that machine was probably safer because of its anti-lock braking equipment. It looked like it might be a fast motorcycle. "Well, it has to have a big engine because it requires a large amount of electricity to drive that anti-lock braking system."

Occasionally, there's a different version of a blacklist. It's called a whitelist. In this case, the company will insure only certain makes and models that it predetermines, that it thinks are the cream, likely not to be in accidents. I believe you had appear before you earlier one company that writes motorcycle insurance that has a whitelist.

We would like to see an amendment to the basic third-party accident benefits policy that making use of the type, model, size, vehicle profile of a motorcycle is an unfair practice in rating. It should be on the driver and on the record of that driver.

There are several other issues I'll just touch on quickly. There's a lack of availability of insurance for off-road motorcycles that are licensed under the Off-Road Vehicles Act and trail-type motorcycles of limited use that are licensed under the Highway Traffic Act; similarly, a restriction in the availability of antique and classic motorcycle insurance. Only two firms in Ontario at the moment will write this kind of coverage.

We do think, and we've proposed this several times before, that there will be a lot of technical details, minor problems, whatever the final form of this act is, when it goes into force. We would like to see a motorcycle insurance advisory committee made up of government, the insurance commission, the insurance industry and motorcyclists to sort out some of these niggling details that legislation will never address. We're quite happy to sit down with groups of people. We've been sitting regularly with the insurance commission over details. It's been very helpful. We understand the system better. They understand our particular problems and we think progress in that may be best made in a friendly atmosphere.

We think there needs to be a public review of rate increases. Motorcycle insurance is essential, you have to have it, although some people certainly try to get away without. But we think we have to have a public mechanism, just the same for utility rates, that people can see what the cost requirements are. If your telephone rates are under scrutiny, your electricity rates, so should your insurance rates be under public scrutiny.

We need a standardized classification and rating system for motorcycles. We've been working with the insurance commission in regard to this in its work with the insurance advisory organization to get something like this. We'd like the committee to suggest that we move more rapidly on it. It would make comparison shopping easier. I think it would encourage small insurance companies that don't write insurance now into the market.

I just touch on motorcycle safety. There's been some criticism in advertisements on the radio that we've heard recently that this bill does not address road safety. Of course, that's under the new road safety agency act, I guess, that's coming up, but motorcyclists have been very active for a very long time in improving safety in motorcycles.

Data in this report we've given you show the great reduction in fatalities over the last few years. The industry provides a large number of motorcycles for training purposes. Two out of every three motorcyclists getting their full licence last year in Ontario had been trained through the community college system. We think this is one of the big factors in reducing accidents, injuries and fatalities, and we know that's the only way. Improved safety's the only way to try keeping insurance costs down, because while insurance may pick up the pieces, you always wish you never had the accident in the first place.

I will now shut up and take questions.

The Chair: Great, Al. Okay, we'll start off with Mr Mancini.

Mr Mancini: How much time do I have, Mr Chairman?

The Chair: We have a total of 12 minutes between the three parties.

Mr Mancini: Sir, you join a chorus of other groups and organizations and individuals who have come before this committee and told us that your rates are going to go up. I might as well get right to the point: Do you think that the benefits in Bill 164 are worth the increase in rates?

Mr Allan Johnson: It's going to be hard to convince the motorcycle industry of that. Do you want to discuss that, Bob?

Mr Robert Ramsay: I can touch on that very briefly. In our short little addendum to the overall submission we have tried to calculate what sort of impact this will have—yes, that particular one—on the industry as well as on motorcyclists. We estimate that the number of motorcyclists who have no insurance will actually increase. It's a trend that seems to be growing and it will mean about another 6,000 motorcyclists will operate their motorcycle without insurance.

Because motorcycling is not something that you have to do, it's something that people choose to do, and if they're only choosing to do it three or four months a year or five or six months a year, sometimes the costs can quickly outweigh the risk factor, or the perceived risk factor, of not having insurance. So we believe a very significant impact will be that some motorcyclists choose not to have insurance. This is a very negative thing for the social fabric of Ontario and we think that's not a very healthy thing. Affordability of insurance is key and vital to all Ontarians, and without affordability, then it's counterproductive.

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Mr Mancini: So the first effect then, in your view, of Bill 164 is to pretty well negate the intent of the road safety agency.

Mr Robert Ramsay: I wouldn't say that precisely. What I would say is that some motorcyclists will benefit. Each person will make his decision on his own, but some people will choose to act outside of what is in the social best interests of all Ontarians.

Mr Mancini: But if we add another 3% or 4% of all motorcycle riders on top of the 6% or 7% who now don't buy insurance, I'm not sure what the road safety agency is going to do if on one hand it would make it impossible for people to buy insurance.

My other question, and I'd like to direct my question to the gentleman who made the presentation, is whether or not your association has received extensive criticism about the current legislation.

Mr Allan Johnson: I think the increased accident benefits are seen as a positive thing, because roughly 40% of motorcycle accidents are single-vehicle accidents where there's nobody to sue. This is the only consolation.

Mr Mancini: How do you people feel about the loss, or I should say the—

Mrs Caplan: Inability to sue for loss.

Mr Mancini: That's right, the inability to sue for economic loss?

Mr Allan Johnson: I don't think motorcyclists, being the independent sort, have ever taken lightly the idea that rights that have been entrenched since the days of the Saxons—the right to sue somebody, the right for compensation—have been taken away. On the other hand, I know of a number of cases where tort provided no consolation. I had a gentleman come to me just a few days ago. He's been four and a half years trying to get a resolution of a case where he was hit by a drunken uninsured driver. He's had \$1,200 compensation in four and a half years.

Mr Mancini: My final comment—

The Chair: Wait a minute. Mr Harnick, you're on now. You've had your time there.

Mr Harnick: Sir, I have had the pleasure of acting for people who've been involved in motorcycle accidents, and the one thing that I find when I'm acting for people who have been involved in a motorcycle accident is that generally they are badly hurt after an accident, particularly when it's an accident with a car or with a truck. I'm sure you'll agree that this in fact is usually the case. Am I correct about that, that generally accidents can be very severe, dealing with motorcycles?

Mr Allan Johnson: They can be.

Mr Harnick: And often are.

Mr Allan Johnson: Although the Osborne report found that there were fewer incidents of head injuries among motorcyclists than among car and truck cases.

Mr Harnick: They wear their helmets, and fortunately their helmets work. But you often see bad fractures, bad internal injuries, facial injuries sometimes, if there's not a mask.

But what concerns me about this bill is that someone who might be badly injured or killed is not treated very well under Bill 164 in terms of being able to claim for his or her actual economic loss. If someone's making \$35,000 and has two dependants and is an innocent victim of an accident and is killed, the most his or her family can get to support them for life is \$120,000. I wonder if you can give us some comment.

Mr Allan Johnson: That doesn't include an option under the Family Law Reform Act, does it, to soothe the pain and suffering and loss of enjoyment and all that sort of thing for the surviving?

Mr Harnick: Let me tell you about that. The people who get to sue for their loss of guidance, care and companionship under the Family Law Reform Act have to kick in a \$5,000 deductible; so after you've given up what really is a \$700,000 loss of income, you're also giving up \$5,000 per claimant under the Family Law Act. What I put to you is, is that fair for an innocent victim who, under this plan, will be paying an additional 20% to 30% in premiums?

Mr Allan Johnson: I'm not sure. We've had long discussions about the advantages of tort versus increased accident benefits. Generally, I think it's ended up coming down on the side that the increased accident benefits, if affordable under the loss transfer thing—everything is a compromise, and it might be the better way for motorcyclists. Certainly, they were losing out under the previous system.

Mr Harnick: Let me explain another thing. The OMPP—

The Chair: I'm sorry, Mr Harnick. We go over to Mr Klopp. Four minutes are up.

Mr Klopp: Good evening, gentlemen. I found your brief very interesting. One of the things with this whole business of the review of Bill 164 is trying to find that balance; telling people in my riding who are automobile drivers plus motorcycle drivers that they need to have better coverage. You've brought out a couple of examples. Yes, there are some where there's the hero, like winning the lottery, but there are a lot where it's a real crap-shoot. Where do you get the balance? My question about the increases and the number of issues you can take on—as you say, many times the motorcycle is a single-vehicle accident; it's you and the tree, and usually you can't sue the tree. You can maybe cut it down, but you can't do much else with it. On the whole, is this not a better system than what we've had before, keeping in mind that we want to keep the rates affordable?

Mr Allan Johnson: We'll soon know, I suppose. I think one of the great problems in this setting is that it was changed to an increased benefits system and there are literally 18 months of experience with it. That's what actuaries we've talked to are saying. You just can't tell how some of these are going to work out in the long run. That's why there's the uncertainty about it. We're not any more certain, have no clairvoyance, perhaps less than some other people would.

But your party has the majority and wants to see this, and we think there's going to be a cost impact. We've suggested one way to reduce it somewhat, but there may be other things that have to be done. We have no clear answer to that, except that if it is too high a price impact, the same thing might happen as happened in 1990: People were unhappy with the eventual system and voted for somebody else. If they vote for somebody else again, we're going to be back revising the system again, and there we go. It could well happen. We're just trying to get a system that we think motorcyclists can live with and can be economically affordable and will pick up the pieces better than it has in the past.

Mr Robert Ramsay: Mr Chairman, if I may make one quick comment on that particular question, I think that's the real crux of this whole issue, particularly as it applies to motorcycles. We don't have enough information and I think—this is my concern—the government and the opposition parties don't have enough information on how this is going to affect motorcyclists. Every study we've seen deals with automobiles; nothing, absolutely zero, zilch, zip, nothing deals with motorcyclists. So to sit here

tonight and say, "Yes, we love this," or "No, we hate it," is inappropriate. What we have to do is get more information before an intelligent decision can be made. I would ask this committee to recommend that there be a study on motorcycle insurance, see the impact, and then we can all make an intelligent decision.

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Mr Mancini: Why hasn't the government done one?

Mr Klopp: I guess that's why they have committees. When I first got here, I wondered why we needed to have committees and stuff like that. But that is exactly why and why we're here listening. You pointed out the view that, okay, we've increased benefits but that they have to be affordable; on the other hand, there's never been a whole lot of discussion about motorcycles. I certainly hope MFI is listening.

The Chair: How many licensed motorcycles are there in Ontario, and how many motorcycle-licensed riders? I know there's quite a difference. Just give the people of Ontario an idea.

Mr Allan Johnson: There were 109,865 motorcycles licensed in 1991. There are 460,000 people who have at some time or other passed a motorcycle test and would still be legally permitted to go out and buy a motorcycle, get on it and save gasoline and the rest. One thing I just might add is that motorcycle insurance, if you look at the figures on page 11, is continuing to be quite profitable with the insurance companies, so they do have some margin. These are the official 1991 figures given to us by the insurance commission. It has been a profitable line; these figures do not include investment income, of course.

The Chair: If I don't see you beforehand, we'll see you in the first week of May here at Queen's Park, out in front, okay?

Mr Allan Johnson: Thanks very much, Mr Hansen and committee.

ANN DAGLEISH

The Chair: Mrs Ann Dagleish, come forward, please. I'd like to welcome you to the standing committee on finance and economics on Bill 164. We have 20 minutes.

Mrs Ann Dagleish: I'm sorry to be late.

The Chair: That's fine. It's cold out there. I'll bet your car didn't start.

Mrs Dagleish: No, the taxi driver got lost. It's not my fault.

The Chair: I can tell you, we ordered pizza from just two blocks away when we sat until midnight. We kept waiting for the pizza. It didn't show up; he didn't know where Queen's Park was. So a lot of people in Ontario don't know where we're at.

If you don't mind, in this 20 minutes, could you leave some time at the end for questions from the committee? They usually like asking questions of your presentation. You can have it for five minutes and 15 minutes for questions, or however you want to split it up; that's your 20 minutes.

Mrs Dagleish: Thank you for giving me the opportunity to tell you how I feel about the car insurance plan which you are considering for people like me. I am in a unique position to comment on the proposal, because I am the only person in Ontario who can say that the judge has considered my injuries and determined that they cross the threshold in the present car insurance system.

I am a 77-year-old widow and a grandmother, and I live alone in a small house in Collingwood. Until my accident in September 1990, I enjoyed excellent health and was able to cut my own grass, shovel my snow and drive-way and get my own groceries and all the necessary jobs around the home. I really enjoyed my independence.

I won't take the time to give you the details of my accident and the troubles after it happened. You should know that I was entirely innocent in the accident and that the injuries have changed my life drastically. My spleen was ruptured and removed. I now have a long scar on my tummy. My neck and my back have been such a problem that I no longer am able to do jobs at home as I used to. I experience almost constant discomfort.

Because I felt it was wrong that I should not recover compensation for my pain and suffering, I went to a lawyer. He told me about the threshold, and it sounded very unfair to me. I told him to sue anyway. I did it for other people as well as myself.

When the Meyer case was decided, my lawyer told me that the judge said an injury would have to be nearly catastrophic and much more serious than mine to cross the threshold. I thought that seemed very unfair to innocent people, and I told my lawyer to go ahead.

Then the insurance company asked the judge to decide if my injuries did not cross the threshold. The insurance company attempt backfired, because the judge decided that my injuries were serious. He said that I should not be penalized because I am a senior and don't have to live with the problems I have as long as a young person would.

My lawyer told me that neck and back problems, my scar and the loss of my spleen are probably worth \$15,000 each. In other words, if there had been three people in my car who had each sustained these injuries, each person would have a claim for about \$15,000. Under the proposed system, each of these people would have injuries which, according to the judge who decided in my case, would get \$15,000 in compensation.

Under your proposal, each one of these claims would be reduced by the proposed deductible of \$15,000. As a result, these people would get nothing. What could be fair about that?

When the NDP campaigned for office, it said it would restore the rights of innocent people. My case demonstrates that this new law breaks that campaign promise.

I would also like to say something about the way this proposal will hurt grandchildren. You are taking away the right of even the seriously disabled to sue for anything except for pain and suffering. What if one of my grandchildren were terribly injured? Under your proposal, my grandchildren cannot claim a penny of any of the cost of providing the care they deserve over and above what your

chart allows. Under your proposal, my grandchildren are stuck with the average industrial wage in Ontario or their wages at the time of the accident. The right that was left to them under the present threshold scheme to recover wages based on what they might have become, is taken away. I cannot understand why you are doing that to innocent children.

I'm not able to answer tricky questions about the good and the bad things in your proposal. I'm sure there is some good. I can tell you what seems fair to me and other seniors like me, though there are some things about this that just don't seem fair. Thank you for listening to me.

The Acting Chair (Ms Christel Haeck): Thank you very much, Mrs Dagleish. We do appreciate your comments. I will turn to Mr Owens to begin the questioning.

Mr Owens: Thank you, Mrs Dagleish, for coming here this evening. I'm sure it's difficult to come to a committee and talk about a personal experience such as you've had.

I want to agree with you that the threshold under the current system is unfair. You've had some limited success, as I understand it from your presentation, in fighting that threshold to date. Is that correct?

Mrs Dagleish: Yes.

Mr Owens: And are you still in front of the court, at the court of appeal now?

Mrs Dagleish: No.

Mr Harnick: Do you want me to clarify?

Mr Owens: Are you the counsel?

Mr Harnick: Well, I've read the case. Do you want me to clarify so that everybody understands, or do you want me to sit here with my hand over my mouth?

Mr Owens: With your tort in your mouth? No, if you could clarify that.

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Mr Harnick: If you think what happened to this lady is funny and you want to make jokes about it, go ahead. I don't think the loss of a spleen is very funny; you might think that's a very amusing thing. What's happened to this lady is that a preliminary motion has been brought to see if her claim makes the threshold. At that motion, the judge decided that, as of that day, her claim made the threshold. When she goes to trial, probably six months or a year from now—I don't know what stage the case is at—I suspect the defence lawyer will bring another motion at the opening of trial and again ask for consideration as to whether the claim meets the threshold. That's the situation she's in. I think the importance of this witness is that she extrapolates, based on what her lawyer tells her her case is worth, what she would get under the brilliant system now before us, which is Bill 164: For loss of a spleen, she gets zero.

The Acting Chair: We appreciate your legal interpretation. I will now turn the floor back to Mr Owens to continue.

Mr Owens: We've had presentations from insurance companies and legal counsel, and one of the suggestions that came out during a presentation from a company called

Progressive Casualty was that we not have the kind of test that we have envisioned in our legislation, but that we have a verbal threshold as well as a monetary deductible. How would you feel about that, the increased lack of access you would have had? You're now two years after your accident and you're still going through the legal system. How does that make you feel?

Mrs Dagleish: It's such a long process; it doesn't make me feel too good.

The Acting Chair: I have to turn the floor over to Mr Mancini at this point.

Mr Mancini: Mrs Caplan has a number of questions she'd like to ask.

Mrs Caplan: I appreciate your coming today. It's important for us to hear from individuals how this is working. I know how disappointed you are with the NDP government, which promised it would have full tort for both pain and suffering and economic loss within a full government-run system. That was their campaign promise. Your coming here today and reminding them of that I think is very important, because Bill 164 is not what they promised. The concern I have is that you are going through the process of the existing legislation and—the United Senior Citizens of Ontario, which was here just a few minutes ago, had this to say on behalf of seniors:

"We have received very few complaints about the present method of claims handling, either for bodily injury or property damage. Improved claims handling and efficient delivery of accident benefits appear to be a direct result of the current legislation.

"Another benefit to seniors has been premium stability....our members have been pleased with the stability over the last two years."

They're very concerned because they believe, as the evidence has been put forward, that senior citizens in Ontario will see auto insurance rates increase between 4% and 20% next year.

You're going through a situation where you don't know how the existing bill is working, because you haven't finished your court case. We have heard people coming before the committee saying, "This bill makes the present system worse." They have said that the government should withdraw the bill and wait till we have the result of cases such as yours to see what improvements should be made. In fact, that was the recommendation of the senior citizens' alliance: "Why don't you just wait a little bit"—I'm paraphrasing now—"and give the present system a chance to be fully studied and reviewed?" so we can look at the results of cases such as yours.

What I wanted to ask you, given all the suffering you have had, is whether you think, before they rush ahead with amendments that are going to make it worse—particularly for your grandchildren and young people, because they can't go to courts even when they do meet the threshold requirement to sue for economic loss—that they should pull the bill, withdraw the bill and wait until they've had a little more experience.

Mrs Dagleish: I don't know.

Mrs Caplan: You don't know? Thank you.

The Chair: Mr Harnick.

Mr Harnick: Mrs Dagleish, these are pretty tough questions—I appreciate that—because what you’ve been asked is to compare Bill 164 to the Ontario motorist protection plan, which is what you’re dealing with, and they’re both pretty bad, aren’t they? You have to answer yes or no.

Mrs Dagleish: Yes.

Mr Harnick: What I want you to tell us is, how serious was your injury?

Mrs Dagleish: Serious enough. I had never had an operation in my life and then they took my spleen out, and I had two cracked ribs and I had a great big cyst on the side of my stomach which was very irritated and sore, and I was bringing up all the time. The doctor wanted to operate again on my cyst, but I didn’t want another operation. I thought, “Oh dear, not again.” But everything is sore enough, and then my neck is sore and my back is sore.

Mr Harnick: And those pains are continuing, I’ll bet.

Mrs Dagleish: Yes.

Mr Harnick: Tell me, how does it make you feel that under the previous scheme you could have got kicked out altogether and been told, “Sorry, it’s not serious enough,” and under the scheme the other side is proposing, the new bill, you have to give up \$15,000, and all you’re going to get is maybe \$15,000 or \$20,000. How does that make you feel?

Mrs Dagleish: It makes me feel terrible.

Mr Harnick: Is it right?

Mrs Dagleish: No, it’s not right.

Mr Harnick: Tell these people why.

Mrs Dagleish: Why should I suffer? I was innocently hurt, and why should I suffer without any compensation?

Mr Harnick: If your lawyer does a really good job—I know who he is, and he will do a really good job—and you get up to \$20,000, how does it make you feel at the end of the day, when you have \$5,000 to show for it, because your \$15,000 had to go to pay the insurance scheme to pay drivers who were at fault?

Mrs Dagleish: I don’t feel good about that at all. It’s not right.

Mr Harnick: Thanks, Mrs Dagleish. I appreciate that.

The Chair: I’d like to thank you for appearing before this committee. You did a real good job.

Mrs Dagleish: Thank you. I tried.

KEITH HARRIS

The Chair: The next presenter is Keith Harris. Welcome to the standing committee on finance and economic affairs. I guess you’ve been here since quarter to 7; I met you on the stairway outside. We have 20 minutes, and in that 20 minutes, would you leave a little time for questions at the end for the three parties? You may begin.

Mr Keith Harris: I’m here on behalf of myself, as an accident victim three days after the existing no-fault insurance act came into effect. I’m here to ask you, as people who are taking care of my life, before you even consider

Bill 164, to go back and clean house and make sure the original no-fault insurance is working, because it is not. I’m asking that you make amendments; that if you do go ahead with Bill 164, previous accidents under the existing no-fault system be included in that.

As of tonight, I’m in the hospital for back surgery tomorrow morning, resulting from the accident of 1990. I really don’t know what else to say. All I can say personally, as an injured victim, is that I have no rights to sue as of today. I would hope you people listen and go back and clean house and make sure the bill works properly before you go ahead and change it to something else. That’s all I really have to say.

The Chair: Can you elaborate a little more to give the committee a better idea? I know it’s right here. We’ve got your brief; I don’t know whether all the members have been able to go through it. You got hit? You’re a motorcycle rider.

Mr Keith Harris: I was. I will never ride one again.

The Chair: Has everyone had a chance to read the brief? Are you ready, Mr Harnick?

Mr Harnick: Oh, I think I can be.

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The Chair: The thing is, though, that a lot of people in Ontario are watching this and they don’t have a copy of the brief. Maybe you could give a little bit of history.

Mr Keith Harris: To start with, I claimed benefits under the no-fault benefits act. They were paying me \$600 a week. I’ve been off for over two and a half years, unable to work, due to the injuries from the accident. Out of the first 14 months, benefits were held up for six months; I went without pay for a period of six months within that 14 months. And as of just a little better than a year ago, I am totally cut off benefits due to their doctors stating that I am fine. Their doctors turned around and stated that I needed to have a CAT scan done and told me they would take care of it, and they never did anything. So I proceeded on my own to have a CAT scan done, and that is the result. I am in the hospital tomorrow morning for back surgery.

The Chair: Could you describe the accident you had?

Mr Keith Harris: I was going northbound, on an absolutely clear day, on the inside of a double-lane street and a lady was coming southbound and made a left-hand turn in front of me. I had no alternative other than to dump the bike or go directly into the side of her car. I chose to dump the bike.

The Chair: Were there any charges laid?

Mr Keith Harris: Yes, she was charged, but I was notified one day after her court case that I was subpoenaed to go and testify.

The Chair: That gives everybody a better idea. Mr Harnick.

Mr Harnick: How much time do I have?

The Chair: About five or six minutes.

Mr Harnick: There’s no question, sir, that you were the innocent victim in this accident, is that correct?

Mr Keith Harris: Yes.

Mr Harnick: And no one paid you your no-fault benefits without a fight, is that correct?

Mr Keith Harris: I've constantly fought for two and a half years.

Mr Harnick: Then you ultimately went to the auto insurance board and you got your money. Is that correct?

Mr Keith Harris: No. In reality, the Ontario Insurance Commission did 11 mediations with the insurance company. The insurance company refused to cooperate on 11 different occasions to give the information to the Ontario Insurance Commission. At that time, the mediator in the Ontario Insurance Commission deemed that mediation had failed; I don't have that paper with me. That is when they came up with the offer of less than what they owed me for my weekly benefits, and I had to sign a piece of paper stating that I received absolutely no more medical benefits from them.

Mr Harnick: Have you been able to claim for your pain and suffering as a result of this accident?

Mr Keith Harris: No. I haven't even got to court yet.

Mr Harnick: Why have you not been able to claim for pain and suffering?

Mr Keith Harris: There's nothing to sue for. There's no threshold been set.

Mr Harnick: Have you been told by a lawyer that you won't reach the threshold and therefore that your claim for pain and suffering is worth zero?

Mr Keith Harris: He does not know whether or not I'm going to be able to claim for passing the threshold.

Mr Harnick: Ah, so you have a lawyer acting for you and you're waiting to see if you're going to meet that threshold. Is that correct?

Mr Keith Harris: Yes, and the funny point is that when no-fault insurance came into effect, you were not supposed to need a lawyer to deal with your insurance problems.

Mr Harnick: Tell me, could you have dealt with that insurance company without a lawyer?

Mr Keith Harris: Absolutely not.

Mr Harnick: Otherwise they would have beat you up even worse, is that correct?

Mr Keith Harris: They already have beaten me up, even with a lawyer.

Mr Harnick: Tell me this: What kind of surgery are you having tomorrow?

Mr Keith Harris: I'm having a herniated disc operated on.

Mr Harnick: That case is probably worth around \$20,000 or \$25,000, in my experience.

Mr Keith Harris: I can't put a dollar figure on it.

Mr Harnick: How would you feel under this Bill 164, if your case was worth \$20,000 or \$25,000—and you've gone through the surgery a couple of years after. You couldn't settle the case before the surgery, correct?

Mr Keith Harris: Right.

Mr Harnick: So you're going to settle the case some time after the surgery. Under this Bill 164, if it had been the law when you had your accident and you were going to get \$25,000 for your herniated disc, assuming the surgery is successful, they'd take \$15,000 away from you.

Mr Keith Harris: Why? I already paid my deductible for my accident. I've already paid the deductible.

Mr Harnick: You see, under the new scheme that my friends across the way are proposing, they say that somebody with a herniated disc who will get \$20,000 or \$25,000 has to give back \$15,000.

Mr Keith Harris: For what?

Mr Harnick: Well, you see, they're trying to get rid of the little, insignificant cases. Now, tell me, do you think that your herniated disc and your sore back are a little, insignificant case?

Mr Keith Harris: No, I don't.

Mr Harnick: I mean, it's not a little three-week or six-week or four-month or six-month whiplash case, is it?

Mr Keith Harris: No, it's been two and a half years now and it's going to be at least another year or two before I'm even trying to figure out if I'm going to be okay.

Mr Harnick: That's right, and under what these people—

Mr Keith Harris: With no benefits.

Mr Harnick: Under what these people are proposing in Bill 164, if you're lucky you'll get \$10,000, because they'd take \$15,000 away. Can you accept that?

Mr Keith Harris: No. I can't see how they can justify it.

Mr Harnick: Under the bill that we're working on now, you know that if the surgery is successful your injury won't be permanent and serious, because you'll be better, and you know what'll happen then?

Mr Keith Harris: What is permanent and serious—or "disfiguring" is the word I was looking for.

Mr Harnick: Let me explain something to you. If your surgery is successful and you're all better, your injury won't be permanent and serious, and you know what you'll get under the Liberal plan—

Mr Keith Harris: I have no idea.

Mr Harnick: —for your pain and suffering? You'll get zero. What do you think of that?

Mr Keith Harris: I don't like it at all.

Mr Harnick: So under that plan you get zero and under their plan you get \$10,000, and you've had a herniated disc and major surgery. What do you think of these brilliant insurance schemes that the NDP and the Liberals came up with?

Mr Keith Harris: I have to be honest with you. I'm not interested in the final dollar figure; I'm interested in what's available to me right now as an injured party. I don't care about the lawsuit.

Mr Harnick: It might be zero.

Mr Keith Harris: It's zero what I'm getting right now.

Mr Harnick: And it might still be zero. What do you think of that?

Mr Keith Harris: I think it stinks.

Mr Harnick: Thank you.

The Chair: I've got to go on. Mr Johnson.

Mr Johnson: That's a very unfortunate circumstance you find yourself in, Mr Harris. You have my sympathy, believe me. Under the present system, the system that you're under, obviously you're having a lot of difficulty.

Mr Keith Harris: From day one.

Mr Johnson: You're not getting any satisfaction whatsoever.

Mr Keith Harris: No. All I know is I owe over \$15,000 in legal fees.

Mr Johnson: Under the new system, the system that we're proposing, that is Bill 164, Mr Harnick has suggested that you will be able to sue for lost income. I think that there's no guarantee that you'll be able to recapture any of that lost income when you undertake litigation such as that. I think it's evident that the only thing we know for certain is that if you're going to have a lawyer and you're going to go and fight for what you think you are entitled to, if you don't get that by reason of some technicality in a court of law or for some other reason if you're not successful in your court case, the only person with any certainty we know for sure is going to get any money is going to be the lawyer, because lawyers always get—

Mr Keith Harris: And the insurance companies.

Mr Johnson: And the insurance companies; that's right.

Mr Keith Harris: They're collecting the policies and not paying anything out. They haven't paid one penny towards medical expenses for me whatsoever.

Mr Johnson: That's right. In fact the insurance companies have been making some very handsome profits in the last couple of years and that would be some of your contribution, no doubt, for sure.

Mr Keith Harris: Yes. I look at these figures here. They've made \$7 million last year—profit.

Mr Johnson: Well, actually, they made a lot more than that.

Mr Keith Harris: That's just on motorcycle policies.

Mr Johnson: Okay. I just want to ask you some questions about changes that we propose. Under the new system, the system that we're proposing, Bill 164, we're going to make some improvements over the old system with regard to benefits for people who are in circumstances not unlike your own. Presently, there is a benefit of about \$600 weekly. These are income replacement benefits for people who have a disability. At least temporarily, I would believe you've had a disability; in fact, you may still have a disability. I notice that you came in here with a limp. Is that right?

Mr Keith Harris: Obviously, if I'm on the operating table tomorrow at 12 o'clock, I have a disability.

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Mr Johnson: So the new proposal offers a maximum of \$1,000 weekly, but at least a minimum of \$185 if you meet a disability test.

Mr Keith Harris: And who makes up this disability test? The insurance company doctors.

Mr Johnson: No, this would not be the case in this circumstance.

Mr Keith Harris: I've got it right here in front of me. The insurance company doctors are the ones who rule who gets what.

Mr Johnson: I just want to tell you, Mr Harris, that's under the system that you are being dealt with right now.

Mr Keith Harris: That's why I'm asking you, as the people who are running my life right now, to turn around and amend it to include me in what you're doing right now.

Mr Johnson: Okay. I think that we hear you loud and clear and I think that's what we're attempting to do in the changes to this particular—

The Chair: Mr Klopp, did I see your hand up?

Mr Klopp: No, it's fine.

The Chair: Mr Johnson, go ahead. I thought Mr Klopp had his hand up there.

Mr Johnson: Let's just talk about the insurance companies for a minute. While you're so concerned—

Mr Keith Harris: I'm so concerned that this insurance company is holding one of the biggest shares of the Ontario market and it's not even an Ontario company, and it is not paying Ontario citizens the benefits that they're entitled to.

Mr Johnson: It's a very fair point. I just want to ask you this question: Do you think that if we were to improve the benefits under the new system, when compared to the old system—

Mr Keith Harris: I personally think the benefits that are in place right now are pretty darned close to being fine, if you have a body that's willing to turn around and make sure they are given out properly.

Mr Johnson: Then obviously there's something wrong with the system.

Mr Keith Harris: Obviously.

Mr Johnson: If you can't access what you believe you deserve under the present system, then there's got to be something wrong with the system.

Mr Keith Harris: Under the present system, it states in the Ontario Insurance Act that after three years of a permanent disability, if you are permanently disabled, it turns into a pension. I've lost that; I've lost the total pension for the rest of my life because of this.

Mr Johnson: Someone's determined that you're not totally disabled.

Mr Keith Harris: I don't know how anybody—

Mr Johnson: Is that what they told you?

Mr Keith Harris: Yes. The insurance company's doctors have told me I'm not disabled, but I am presently

collecting income security from the federal government, which has declared me permanently disabled. You tell me how that can work.

The Chair: I've got to go on to Mr Mancini.

Mr Mancini: Mr Harris, having had a number of years' experience dealing with the Workers' Compensation Board, the first thing I'd like to say is, in regard to the information you've made available to us and through the testimony that I've heard that you've given to my colleagues, yours is almost identical to dozens, if not hundreds, of workers' compensation cases that I've handled on behalf of injured workers over the last 18 years. When people in this room express surprise to you that there's a breakdown in the system, please don't believe them, because there are breakdowns in every system. If you ever had to deal with the Workers' Compensation Board, as everybody in this room sitting at this table has had to—

Mr Keith Harris: As a matter of fact I did, because this is one of the problems I have run up against. I have had two previous discs removed from a workers' compensation claim. I am working on my third disc removal right now.

Mr Mancini: So let's not be overwhelmed by a member of the Legislature saying: "There must be a breakdown in the system. It's all got to work perfectly." It's human beings who are handling all of this and yes, there are breakdowns. But I find some of this very curious and difficult to follow. I'd like to ask you a couple of questions. I'm sorry I don't know more about your case; I only know what I have in front of me.

Mr Keith Harris: I could only give what I have in front of me, because I only had three days' notice as it was, coming here.

Mr Mancini: That's fine, sir. I appreciate that. It says that you had the accident and you were taken to the Scarborough General Hospital by ambulance and that you were released the same day. How was that possible with the tremendous injuries that you sustained?

Mr Keith Harris: There we get into another whole different realm of situations that I'm negotiating with my lawyer right now.

Mr Mancini: Thank you. Then it says that you were admitted to the hospital thereafter and there were some tests done and some skin grafts, and there were some X-rays of your back area, but they were inconclusive. I just don't know how so many mistakes can be made on one person's accident claim. First, you were released the same day, after sustaining what I presume to be some terrible injuries, you had to go back for some tests and for some medical treatment, X-rays were taken and they were inconclusive. I find all of this very difficult to understand.

Mr Keith Harris: Me too. The next day, when I was readmitted to the hospital, I was put up in a room and left for 10 days. My doctor came back to me and said, "Keith, I am very sorry, but I missed the skin graft on the side of your leg." All he did was suture up two lacerations in my leg to repair a tendon that was cut to my big toe, which does still not work to this day. The actual injury for the

skin graft was no more than an inch and a half away from the laceration that he sewed up for the other part.

Mr Mancini: My personal belief, based on the information that you have provided to us, is that certainly you have a serious disability and the present law will in fact compensate you.

Mr Keith Harris: I don't have any belief that will ever happen.

Mr Mancini: The thing that I find a little bit difficult to understand, particularly from the government members, is when they continue to say to people like yourself, who have suffered injuries, "The tort system isn't any good, it's a crap shoot and it's rolling the dice," because when they were running for office, the office which they now hold and asked for and won by telling people many of these things, they promised people government-owned insurance with full rights to tort. They didn't say anything about rolling dice and gambling and a crap shoot at that time; they wanted everybody to be able to sue for what they were entitled to.

Mr Harnick: Read what Bob Rae used to say: "Highway robbery."

Mr Mancini: However, that was then and this is now, so we have to put up with all these inconsistencies. I maintain that the Ontario motorist protection plan, with its faults, should be given an opportunity to in fact stand the test of time. I believe it has stood the test of time. I think we need more time to see how the system will play out for the people of this province. I believe that probably some changes should be made to the OMPP in the near future or in the medium future. I don't know why the entire system has to be turned upside down simply because the government has changed, and I don't know why we have to be the only jurisdiction in North America where people lose the right to sue for economic loss. That's the last question I wanted to ask you: whether or not you've had the opportunity to sue for economic loss.

Mr Keith Harris: I haven't had the opportunity to sue for anything.

The Chair: I'd like to thank you, sir, for coming before this committee.

ST MICHAEL'S HOSPITAL, HEAD INJURY TEAM

The Chair: If you want a glass of water, get yourself a glass of water. We're going to take that away because we want to see you. Every time the camera's going down there we're seeing you through the jug.

The next group is from the head injury team of St Michael's Hospital. The two ladies sitting in front of me, would you mind identifying yourselves for the purposes of Hansard and for the people of Ontario to know who you are. I'd like to welcome you to the standing committee on finance and economic affairs. We have 20 minutes; it should be a half-hour. The time seems to be wrong here. It only showed 20 minutes. That's what confused me. So the Chair says you've got a half-hour, okay? You may begin.

Ms Sheila MacDonald: I'm Sheila MacDonald. I'm a speech-language pathologist on the head injury team at St

Michael's Hospital. My colleague here is Irene Sullivan. Irene came down with laryngitis, so I'll be doing the speaking in the first part and she'll save her voice for some questions at the end.

On behalf of the head injury team of St Michael's Hospital, I'd like to thank you for the opportunity to present our concerns on some of the implications of the Insurance Statute Law Amendment Act. These concerns relate primarily to individuals with brain injuries.

As you know, insurance benefits can only be effective if the individuals who are entitled to them receive them in a timely manner. Tonight we'll present to you what is actually happening to individuals when they attempt to access the benefits that they are entitled to.

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First I'll give you some background on the head injury team. The head injury team of St Michael's Hospital provides multidisciplinary acute care, rehabilitation, referral to community services and follow-up to approximately 220 to 250 people with traumatic brain injury each year. Between 1986 and 1991 we have seen 1,288 people with traumatic brain injury.

In addition, we follow these people at six months, one year and two years post-injury, so we have good opportunity to find out exactly how they access their insurance and what the effectiveness of that was. Many of the individuals we see have been injured in accidents and qualify for no-fault insurance or workers' compensation benefits. Our comments to follow are based on the inpatient and outpatient experiences of these people.

Generally, our team has found that individuals are better served by the current no-fault insurance system under the OMPP. Previously, when individuals had a maximum of \$25,000 for rehabilitation, they were often placed in a position of having to wait until their court cases were settled before they could proceed with future rehabilitation. In fact their lives were on hold during this time. Under the current OMPP system we have found an improved access to case management and rehabilitation in a much more timely manner.

The proposed system certainly is an improvement, particularly for students and for those who were non-earners prior to their injuries. Children are still not addressed very well, we feel, but it is encouraging to see a proposal for eliminating the lifetime cap on attendant care. Obviously one who is serious enough to need attendant care will likely need it for the rest of his or her life.

Now I'll move on to our primary concerns tonight, and our concerns are based on the individual's ability to access the insurance funds. As you know, insurance benefits are only effective if they're accessed appropriately and this requires accurate assessment.

Our first point tonight is that assessment of brain-injured individuals by the insurer's representative may not be in the person's best interests. The first reason for that is that an assessor who represents the insurance company is not impartial. Furthermore, individuals with traumatic brain injuries frequently have lack of insight and, as such, they are unable to recognize the full impact of their injuries. Therefore, such a patient's point of view, in an interview as

an insurer's representative comes, will probably not represent him well and in fact will be inaccurate.

Usually the health care professionals in the hospitals have spent hours evaluating the patient's status, using standardized tests and 24-hour observation. An assessor should seek the advice of these individuals in developing the rehabilitation plan, rather than just relying on a quick interview with the person or their own assessor.

Our second point is that frequently we have had representatives of the insurer entering the hospital and questioning the patient's family and hospital staff regarding the patient's status. When the patient is not cognitively competent to understand and appreciate the consequences of such an interview, we believe this is a violation of the patient's rights.

The next point is with regard to confusion. If an insurer's representative enters the hospital and begins to ask questions of the person and then presents his or her own predictions and recommendations, and if those predictions or recommendations contradict those of the rehabilitation team and medical staff involved, this becomes very confusing to the patient and family.

The next point is that such assessments by the insurer's representative are a costly duplication of service. When an individual is being thoroughly assessed by a professional team, paid for through OHIP dollars, there is no need to have that person reassessed by the insurer's representative. This can be not only frustrating for the patient but costly for the insurance company, and then the consumers, who are us, end up paying the extra amount.

The solution we propose to this is quite simple. We can appreciate the insurer's need to have information early in the post-injury phase, and therefore our team solution has been to write a letter to the insurer with a summary of all of our assessment findings. This then acts as a prescription for the patient's rehabilitation. That letter is on the last page for your reference. This has streamlined the referral very well for us and has helped people to get their insurance benefits in a more timely manner.

Our second point is unreasonable delays in accessing insurance. We have had many situations in which the insurers have not acted promptly on our recommendations despite the fact that we have sent the rehabilitation prescription letter mentioned earlier. Due to the nature of the cognitive and communication deficits of these people, it is very difficult for them to lobby on their own behalf. What we tend to recommend to them is that they get a lawyer to assist them with the process of accessing the insurance. We think this necessity then negates one of the purposes of the statutory benefits plan, which is to reduce the administrative and legal costs ultimately and have the funds transferred to the individual involved.

Our third point is with regard to change of case management or rehabilitation services in midcourse. In some cases, the patient we are following in clinic will have been seeing a particular specialist whom we recommended for approximately six months only to have his or her case management changed in midcourse because the insurer decides it would like to use someone it has recommended.

Such situations are compounded when the case management or rehabilitation firm that the insurer hires is unfamiliar with head injury. At least 20 to 30 times a year, one of our team members receives a phone call from a firm or agency which alleges to be providing service to one of our patients but is unfamiliar with brain injury. In fact, we've had some of these people who were being paid for their services calling to ask us how to work with the person. While we're happy to be a resource, we think that this is not a good way to provide service to individuals and that there should be some standards put in place to prevent insurers from being able to change the course of rehabilitation on a financial basis when we have made recommendations objectively in the patient's best interests.

Our fourth point has to do with objective multidisciplinary assessment. We are concerned that individuals should be assessed initially and during follow-up by an objective multidisciplinary team. The reasons for this are that, first, it will ensure fair estimates of their rehabilitation and vocational needs and, second, it will ensure that subtle deficits are detected and that the subtle difficulties that occur as a result of diffuse brain damage will be picked up.

For example, a physiotherapist would be more likely to detect subtle physical deficits such as high-level balance problems or difficulties with fatigue in standing in one position over time. That person is going to be more likely than a neuropsychologist or a physician to determine.

We have to have many disciplines looking at the patient to have a fair estimate of his abilities. The multidisciplinary assessment team should include the following: a social worker, an occupational therapist, a speech-language pathologist, a physiotherapist, a neuropsychologist, a psychometrist and a physician.

The third reason why we propose multidisciplinary assessment is to reduce costs by ensuring that the person has the most appropriate rehabilitation plan and can get on with it early in the rehabilitation phase.

Finally, we feel that multidisciplinary assessment will reduce problems proactively rather than after failures and complications arise. It can be quite a mess if the person has to experience job failure and difficulties with his family before he can get on with the business of rehabilitation.

Frequently, we find that the needs of individuals with head injury are overlooked by insurers, physicians and employers who are unfamiliar with the subtle difficulties of traumatic brain injury. Again, this is why we recommend a comprehensive, multidisciplinary assessment at the outset, as the person is leaving the hospital and entering the community.

Our fifth point has to do with the standards and knowledge base of the professionals who assess and treat individuals with traumatic brain injury. Presently, in the draft regulations of January 1993, part VIII, rehabilitation benefits, it's indicated that insurers will accept authorization for assessment and treatment services from a medical doctor, a registered psychologist or a chiropractor. In the case of brain injury, we feel that this process of authorizing and referring patients for rehabilitation services would limit the total picture of the patient's rehabilitation, vocational and academic needs.

Furthermore, it would cause unnecessary time delays. With this process, the patient would have to wait for services while a member of the regulated health professions such as an occupational therapist, physiotherapist or speech-language pathologist would have to go and lobby the doctors or psychologists to cosign their recommendations. This is an unnecessary time delay.

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In present practice, these professionals regularly make rehabilitation recommendations independently. For example, occupational therapists prescribe wheelchairs without needing the assistance of a physician or a psychologist. Similarly, speech-language pathologists prescribe communication aids without the involvement of a doctor or a psychologist. A social worker's recommendation that a person requires ongoing counselling should be followed immediately, despite the fact that such professionals are not doctors or psychologists.

The other drawback in accepting information from only these three sources is that despite the fact that a person may be a doctor or a psychologist, he or she may not have adequate information about the cognitive, communication, emotional or functional effects of a head injury. Therefore, the criteria should be related to the professionals' knowledge of brain injury and not simply his or her title.

Our solution that we propose for this final point is that there be objective multidisciplinary assessments, and they should be conducted in order to design fair, comprehensive and effective rehabilitation programs for those who have traumatic brain injuries. It would be possible for clinics in regional trauma centres such as St Michael's to have multidisciplinary follow-up head injury clinics and they could provide assessment and recommendation for the insurers to follow. Such regional centres could assist insurance firms in developing preferred provider lists to ensure that quality of service is maintained.

With regard to who should prescribe or authorize rehabilitation services, it is recommended that the draft regulations be amended to ensure that regulated health professionals as well as physicians and psychologists can do so, and we recommend that standards be set by each profession to indicate the type of training that would qualify one of their members to work with someone with a traumatic brain injury within his or her area of expertise. For example, an ophthalmologist should not comment on one's need for cognitive retraining any more than a speech-language pathologist should comment on one's need for cataract surgery.

Insurance firms should have a network of professionals whom they can consult regarding rehabilitation plans for individuals. Such professionals should have demonstrated expertise in the area and should be recommended by their professional associations.

In closing, we would like to add that there are many opportunities in which insurers and rehabilitation professionals can learn from each other. Our head injury team would be pleased to be a resource to insurers, either in the area of providing education to insurance workers or providing

assistance in developing standards and procedures that are more fair for brain-injured clients.

Remember that fair access to the comprehensive insurance benefits to which brain-injured individuals are entitled can only be achieved if there is fair assessment and referral to appropriate and effective services. Thank you.

Mr Owens: The Regulated Health Professions Act seems to follow me around. I want to say that in terms of your concerns with respect to delegating the responsibilities down through to other practitioners, we'll take that recommendation back to the minister. I certainly hope, in terms of offering your services, that we can be included in that offer and, as we have consulted with you in the past, that we can continue to consult with you.

As you're aware, we've set up a task force to look at standards of care to essentially address the issue of the \$3,000 cap with respect to attendant care. I guess my question to you is, how would you like to see the standards of care developed around the treatment of a person who sustains a cognitive injury as a result of an accident?

Ms Sheila MacDonald: That's easy. There are already some in place in some of the colleges, and some of our Ontario associations borrow from the American standards already. Each profession should set up its own within its college. It should be something that consumers demand of the colleges, the College of Audiologists and Speech-Language Pathologists of Ontario, the College of Psychologists of Ontario, the College of Physicians and Surgeons etc. I think those colleges could write those standards without any expense to taxpayers.

Mr Owens: I guess the one thing around this certification, I guess is the word I'm looking for, for persons who would be capable of rendering an opinion with respect to a head-injured individual: How do you see that happening without having to go through the 12-year wrangle and transcending three governments, three political parties? How do you see that happening in a relatively expeditious period of time?

Ms Sheila MacDonald: I'm presently designing a course that I hope to offer at the University of Toronto for speech-language pathologists, so I'm being proactive in this and I would hope that other professions would do the same.

Ms Irene Sullivan: Psychology is moving towards specialty designation as well.

Ms Sheila MacDonald: Yes, so we would just require in our associations that you have to have a certificate in this area before you can comment on it.

Mr Mancini: I don't really have any questions other than to say that I find your brief to be highly professional, most interesting and I believe that the things you've recommended make good sense.

I'm hoping that whatever this committee is that the parliamentary assistant keeps referring to—I should let you know that every group that comes in that has some idea or some problem that doesn't seem to be able to be implemented at the moment is all going to this committee. So you join a long list of people who are going to be considered at whatever this committee is. But certainly I

wish to compliment you on the work you've done and on some of the initiatives that you've told the committee you're undertaking.

Having had some experience in working with the head injury associations across Ontario, particularly groups in southwestern Ontario and here in Metropolitan Toronto, I know the work they do is not only very needed; it's not well understood the way—I just want to re-emphasize the point you made this evening. There are very few people out there who understand the difficulties that head-injured persons face when they try to go back into the community. The more professionals we have who understand this problem, the better we'll be able to educate the entire community and the quicker we'll be able to integrate these people back into their own neighbourhoods.

The Chair: Mr Harnick. We've got three minutes till 9 o'clock. I made a mistake. It wasn't—

Mr Harnick: Can I have as much time as Mr Owens? He had about five minutes. I timed it. I timed it specifically because he got a second question in.

The Chair: You've lost one minute already. Go ahead.

Mr Harnick: Thank you. Let me tell you about a situation that I'm aware of: Young fellow, high school age, end of high school, is involved in an accident. He's an innocent victim and he suffers a severe head injury. What made me think of it was the use of the word "subtle," because when you look at this young fellow, he is the healthiest-looking person you can imagine.

Ms Sheila MacDonald: The walking wounded, we call them.

Mr Harnick: He doesn't even look wounded. He plays tennis, he skis and physically he's in good health. Unfortunately, his brain was injured in an accident in which he was an innocent victim and his ability to learn has been totally lost. He can't retain any information. He was a relatively good student and, based on some of his interests, a future income loss was developed for him based on what he, in all likelihood, would have gone on to do. A future income was based on an income of some \$50,000 to \$60,000 a year. He received a package that, based on his future loss of income, will make his life a quality life.

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Under Bill 164, which fortunately hasn't been implemented for this young fellow, he would have received the equivalent of about \$20,000 a year for the rest of his life, which would have put him on the poverty line, because this bill, Bill 164, says you can't claim for your economic loss beyond what we're prepared to give you, and we're prepared to give you \$391 a week and that's indexed so that you'll keep up with the poverty line. That's basically what it says. Under the OMPP and under the system previous to that, he claimed his full income loss.

How important is it for this innocent victim, who suffered subtle head injury, or even a not-so-subtle head injury, to have access to his actual income loss in terms of the quality of his future life?

Ms Irene Sullivan: I think one of the areas that the new proposal falls down in is with children and adolescents who have no work experience or limited work experience. We cannot speak totally to their potential; we make estimates about what their potential would have been. I think for children and adolescents and people in school this act falls very far below helping them and they still should retain the right to sue for income.

There should be estimation based on—for example, sometimes we have the luxury of having school reports to know how they're performing prior to their injury. With estimations post-injury I've seen people whose—for example, a case where an IQ was 150 following a head injury. Of course, the lawyer and the insurance company said he's still above most of the people. However, as we had the luxury of having the results prior, he'd been tested in school just by chance. His IQ was around 185. So his potential was any kind of job he wanted, really, and now he has severe behavioural problems and basically he'll never work. He's inappropriate.

So I think especially for non-income earners or people who have not earned a wage, the act falls down very badly and really does affect the quality of their rights.

The Chair: Mr—

Mr Harnick: I want a second question, just like Mr Owens had.

The Chair: Mr Harnick, it's exactly the same time. I'll make sure when we go on the road you've got a new watch there, okay? I'd like to—

Mr Harnick: Will you buy me a new watch?

The Chair: You can use this one. It's got no face on it there, no numbers, so—

Mr Harnick: Sort of like the NDP part of the—no faces on them.

The Chair: I'd like to thank you for appearing before this committee.

Ms Irene Sullivan: Thank you for the opportunity.

STEVE RYAN

The Chair: The next presenter is Steve Ryan. Come forward, please. I like the colour of your tie there, sir. You have 20 minutes. In that 20 minutes if you can leave some time at the end for questions from the committee. Mr Mancini will be the start-off on questions.

Mr Steve Ryan: I submitted my presentation last October and it doesn't seem to be around anywhere so I just have my copy.

The Chair: Okay. We can make other copies for the committee.

Mr Ryan: Okay. But I did send it in to a Mr Decker back in October and then this was postponed.

I'd just like to share with you my experience with no-fault insurance and the OMPP. I've been very successful with it, getting every benefit we're entitled to, but it's still not good enough.

On June 29, 1990, a driver sped through a stop sign in the village of Newcastle, causing a T-type crash. Our

daughter and son suffered serious injury. Both were wearing their seatbelts.

Our daughter recovered eight months later from the stomach and leg injuries, while our son remains out of school, brain-damaged from the head injuries he sustained. My wife is a registered nurse and works the midnight shift at the local nursing home. She drives on a limited basis.

On August 11, 1990, I ceased my real estate career to care for our injured teenagers.

In November 1990 we sought legal counsel with our family lawyer. He referred us to a specialist in personal injury litigation. He proceeded with litigation on behalf of our son.

In early 1991 I wrote to Mr Peter Kormos and Mr Robert Runciman of the Ontario Legislature. Both responded with letters of support. Mr Runciman's letter was very specific as to the harshness and the unfairness of the existing legislation.

After taking our son to many local doctors without any improvement, he was referred to the whiplash and headache clinic at Sunnybrook hospital. The expert examinations, physical and psychiatric treatment brought about improvements for which we are grateful.

In August 1991 I found an evening and night security guard's job with continental hours. This allowed me to work, leaving the daytime open for our son's numerous medical appointments. I was laid off January 10, 1992. It's just as well, as I was exhausted by this time.

Financial lack was taking its toll, as all savings, RRSPs etc were now exhausted. I wrote to my insurance company explaining our financial plight. I also wrote to Premier Rae and Mr Brian Charlton.

My insurance company granted me a \$100 per week allowance in February 1992 and advised me to collect UIC benefits. I refused to collect UIC.

Replies came from Premier Rae and Mr Charlton. Mr Charlton's letter alluded to care giver benefits. He recommended I contact the Ontario Insurance Commission to seek assistance as to eligibility. The pre-recorded tapes and advice from the counsellor equipped me to claim care giver benefits.

At this time, a litigation specialist with my insurance company called, advising that she was now handling our file. She sent an investigator and a neurorehabilitation team to our home to assess our son and our family needs. Shortly thereafter, she granted me full gross income care giver benefits based on my 1992 security guard's wages. Subsequent to this, she paid me retroactive to August 1, 1990.

The year 1992 introduced us to the consultant doctor for independent medicals. A neuropsychologist, neurologist and neurosurgeon examined and interviewed our son in May, June and September 1992 respectively.

After six hours of interview and psychological testing, the neuropsychologist wrote in his report that our son does not have a closed head injury and does not suffer post-traumatic stress disorder. He also wrote that our son has many psychiatric problems, none of which are related to the accident. He finally stated I should be removed as our son's supervisor. I was offended and humiliated by his

report. A letter of protest to the CEO of my insurance company was mailed by me.

The litigation specialist hired the neurorehabilitation team who assessed us at our home. At present, two therapists are working with our son on his cognitive and language deficiencies. He continues his Wednesday psychiatric group therapy in Oakville. He's learning pain management and healing of memories caused by the post-traumatic stress disorder.

From the time of the accident until he participated in learning pain management, he had been on five different drugs. Today, the only chemical interventions used are Imetrix injections when a severe headache comes on. He describes these headaches as feeling as though his brain is floating and a nail is being driven into it.

Our son is improving emotionally and psychiatrically. We realize he will never be 100%, due to the brain damage. On September 23, 1992, he passed the Hugh MacMillan Rehabilitation Centre's program, which will allow him to obtain his driver's licence. At this time, I will remove myself as his care giver.

Our son got his driver's licence December 16, temporarily until March 3 when he's being reassessed, so that very day, December 16, I called my insurance company and asked them to terminate me as his care giver, as we do not, my wife and I, want to hinder his recovery in any way.

Of course, this puts me out of income and out of a job, but I do realize I can claim benefits under the OMPP if I am mentally or psychologically injured. I'm stressed out beyond belief, but at this point I'm not prepared to make a claim in that regard. I want a job.

The OMPP does not provide any funding or reintegration programs for people like me. I mean, I was cut off just like that, and the insurance company had every right to do it.

In regard to the threshold, it is my understanding the first case has gone to trial and the judge has ruled that only "near catastrophic" injuries will qualify.

Mr Charlton's plans to reform the OMPP have my full support. Lifetime medical is a must. Lost future income is covered by a loss of earning capacity benefit indexed for inflation. His program provides the best of guaranteed benefits combined with access to the courts for pain, suffering and psychological damage, subject to a \$15,000 deductible.

Finally, I have joined the Durham Region Head Injury Association. The monthly meetings and seminars are helping me to understand what our son and other family members are going through.

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In summary, my recommendations to the committee are:

— Insurance companies must provide to accident victims and their families all pertinent information related to guaranteed benefits. I didn't know about booklet OPF number 1, which covers all the guaranteed benefits, until 20 months after the accident.

— All insurance companies should be compelled to make periodic home visits to victims to assess needs and answer questions. Phone contact alone is inadequate.

— Only doctors who treat as well as examine patients should be allowed to do independent medicals.

— Patients should be allowed to tape-record independent medical examinations to provide a record of the doctor's examination practices, questions and answers.

— Parents like myself should have income and programs available to allow us to reintegrate into the workforce. We need to be restored to a pre-accident basis.

— The Ontario Insurance Commission should be promoted with regard to its services to the motoring public. They were of great assistance to me.

— The head injury associations should also be promoted in greater detail, as many accident victims suffer head and neck injuries.

This has been my experience since June 29, 1990. The OMPP has many fine points. It needs reform. Consultant doctors who provide offensive and demeaning reports should be put on alert that their practices will not be tolerated. May God grant this committee the wisdom of Solomon as it makes its decisions.

Mr Mancini: First of all, Mr Ryan, I want to say that the story you've told the committee is one that I'm sure makes us all want to express our personal sympathy to you and your family. I'm somewhat confused as to exactly how you would like to reform the OMPP. Did I understand you correctly when you said you would prefer immediate benefits instead of the right to sue, or did I understand you to say that you would prefer the right to sue as well as immediate benefits that you weren't aware of? I lost you for a second.

Mr Ryan: I've been watching these proceedings for three days, and I must admit I have some doubts about Bill 164 that I didn't have three days ago. It's my perception that the insurance companies have no intention of paying a dime for additional compensation over and above guaranteed benefits. They're going to fight me. They're fighting me like crazy now. Our son had five independent medicals last year: three from my insurance company and two for the defence. They are fighting me.

Mr Mancini: That was going to be my next question.

Mr Ryan: So I may lose, even though my son is brain-damaged. He's not crippled. He's not paralysed. He's not slurring at the mouth.

Mr Harnick: It's subtle.

Mr Ryan: Yes, and I picked up your comment to the previous person. So I'm trading off a guarantee.

Mr Mancini: So what you're saying is that you may lose the court case. Is that what you're saying?

Mr Ryan: There's no guarantee we're going to win.

Mr Mancini: So you would prefer not to have that kind of system?

Mr Ryan: It's rolling the dice, and I'm not a gambling person. If my son were injured under Bill 164, I know he would get a cash settlement, probably up to the limit. There wouldn't be any question in my mind.

Mr Mancini: He'd get a settlement less \$15,000. But he'd have to prove—that's where I seem to lose you.

Mr Ryan: I'm torn myself.

Mr Mancini: That's where I lose you, because under Bill 164, in order to get anything over and above whatever the benefits are going to be, you have to apply for action, and then there's a \$15,000 deductible.

Mr Ryan: But he may get nothing. In the existing OMPP, does he have a permanent serious disability of a physical nature?

The Chair: As I go along, Mr Peter Kormos has joined us, and we go to Mr Harnick.

Mr Harnick: You just hit it right on. The drawback to the OMPP is whether his injury is permanently serious and whether it's physical in nature. We all know that under the Liberal scheme, psychiatric injuries were excluded. Physical injuries were included if they were permanent and serious, but psychiatric injuries were excluded. You may get nothing, but that has nothing to do with a crap-shoot in terms of liability. You're the innocent victim, is that correct?

Mr Ryan: Yes.

Mr Harnick: So that's the weakness of that OMPP scheme. Even though you have a demonstrable injury, you might get nothing because the Liberal government excluded psychiatric injuries, so that's a big defect, right? You have to say yes or no.

Mr Ryan: We are not suing for psychiatric; we are suing for physical.

Mr Harnick: Because if it was psychiatric—what you're trying to do is prove that it's physically based.

Mr Ryan: Yes.

Mr Harnick: Exactly. A brain injury is a physical injury. It has other manifestations, though. That's what we have to do, unfortunately, with the Liberal legislation; we have to be imaginative.

But let me tell you something about Bill 164. Your son has a serious head injury. He's also got psychiatric problems. How do you like the idea that if he can't work to the potential he had before the accident, all he gets are the prescribed benefits?

Mr Ryan: Of \$185 a week.

Mr Harnick: That's right, and then eventually it'll turn into \$20,000 a year, but he might have been able to make \$40,000 or \$50,000 a year, right?

Mr Ryan: I'm taking the worst scenario. For every five reports they have, we have 15. We're going to win this thing, but—

Mr Harnick: I hope you do, but let me ask you this. Under the NDP scheme, Bill 164, the most your son would get when he got to 30 years old was the equivalent of \$20,000 a year, for his income, if he couldn't work.

Mr Ryan: I thought it was \$30,000.

Mr Harnick: It's \$20,000, the average wage.

Mr Ryan: I was told it was \$30,000.

Mr Harnick: Yesterday Mr Endicott was here and he said it was \$20,000 net. Do you think your son could have made more than that in his career if he hadn't had the accident?

Mr Ryan: Well, he went through two years of high school with a 72% average.

Mr Harnick: And don't you think he should be entitled to claim what his actual loss would be?

Mr Ryan: But as a father with limited money, I have no money to fight these guys. With Bill 164, it's guaranteed.

Mr Harnick: No, it isn't.

Mr Ryan: Yes, it is.

Mr Harnick: No, it isn't.

Mr Ryan: It is.

Mr Harnick: Let me tell you about Bill 164. The income loss, which is the largest part of his claim, might be \$20,000, \$30,000, \$40,000 or \$50,000 a year for the rest of his working life, and all he's going to get is \$20,000, because they've taken away the right to claim the additional economic loss.

Mr Ryan: The OMPP could leave him with \$185 a week.

Mr Harnick: That's right. The OMPP is no good either.

Mr Peter Kormos (Welland-Thorold): On a point of order, Mr Chair.

Mr Owens: He's not a member of this committee.

Mr Harnick: He is so.

Mr Kormos: A point of order, Chair. The standing orders entitle me to raise points of order.

The Chair: What's your point of order, Mr Kormos?

Mr Kormos: The point of order is that that's exactly why New Democrats have always fought for good no-fault, so that people could live—

The Chair: I'm sorry, it's not a point of order. Shut the mike off.

Mr Kormos: Wait a minute. You didn't let me finish my point of order.

The Chair: It's not a point of order. It's a piece of information. I go to Mr Owens.

Mr Kormos: The Premier hasn't even passed his laws yet, Chair, and you're already gagging a member of the Legislative Assembly. Good style.

Mr Owens: My question to you is quite simple. In your view, as a parent, what's more important to you—

Mr Ryan: Security, sleep at night.

Mr Owens: What's more important for you? Is it more important to you to spend years and years in court and potentially end up with nothing or to have immediate benefits, immediate access to rehabilitation? Is that more important to you?

Mr Ryan: I have given this careful, careful consideration. I believe my son would receive less under Bill 164. I know that. But I'll tell you, the accident was two and a half years ago, and our son is improving wonderfully, because he's had the access through my fighting for him with the insurance company. I have a good insurance company: You hear all these horror stories of people getting cut off; we've never been cut off. They have provided and paid for everything I have asked for that's in the insurance contract, but they won't tell me what I'm entitled to. I have to really root around to find out what I'm entitled to.

In the head injury association, I see victims injured four years ago with no medical treatment like my son is receiving. So the no-fault guaranteed benefits—no-fault is the answer in principle.

Mr Owens: I appreciate your answer. Mr Manicini offers you sympathy, but are you aware of what his government gave the insurance companies?

Mr Ryan: Yes, \$750 million a year, my money.

Mr Kormos: And you propose to give them even more.

Mr Owens: Were you here for the presentation from St Michael's Hospital?

Mr Ryan: Yes.

Mr Owens: You've mentioned something about the kinds of consultations that took place around your son in determining the nature and extent of his injury. Do you agree that it's in the best interests of people like your son and other accident victims that we look to establishing appropriate standards of care, to have an individual's own physician being involved at the outset in the assessment?

Mr Ryan: We have that now. Nothing happens without the psychiatrists in Oakville coordinating, because the insurance companies pay only if the treating physician makes the proposal, the need. The biggest problem with the insurance company doctors is that they're dinosaurs. They do not have the knowledge or the experience of the physicians who are treating our son from Sunnybrook and the whiplash and headache clinic. They report the most outrageous comments and conclusions after one visit. Every one of them, all five of them—or four out of the five, pardon me. The four consultant doctors left me out in the waiting room every time; they wouldn't invite me in. With the last one I forced my way in. He still wouldn't let me come in.

The Chair: Mr Ryan, I have to say our time is up; it's 9:20. I'd like to thank you for coming before this committee today.

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SAL VALELA

The Chair: The next presenter is Sal Valela. Welcome to the standing committee of finance and economics. We have 20 minutes, until 9:40. You may begin. Leave some time at the end for some questions too, please.

Mr Sal Valela: I'd like to say good evening to everybody tonight. I love you, Bruna and Vanessa and Robert.

My problem started back in August, when I was involved in a motor vehicle accident. Someone hit me from behind. It wasn't as catastrophic as some of these people I've been listening to, who've been given the runaround and all these other things, but it's hurting me enough.

Another thing that this new Road Ahead report doesn't cover is people who have already incurred a disability. There's nothing mentioned about people who are already on disability, either partial or permanent, whatever the story may be.

No-fault: Both the OMPP and this new one have their goods and their bads: The capping is taken off; no index. I

don't agree with the 90%, because when I'm involved in an accident and it's not my fault, I believe I'm entitled to what I'm entitled to. I don't believe I should be getting paid over and above the amount of money I've been making as an employee; I should be making the same money I would be making as an employee. That's fair in my eyes, and in the eyes of Solomon, of course.

I don't like the things about the children, the spouse—the death plans. They're going to be increased, but for me that's not high enough, because Robert and Vanessa—I've come to learn, as other people have been teaching me, that you can't put a price on a child's death. But let me tell you, you can put in something to make you happy as an individual, something to make you feel there's something there to care for: You go to the cemetery and bring them flowers or whatever you do, and the thoughts will always be there. The insurance companies are trying to wonder, "How is this going to impact my insurance company in the next 40 years?" It seems I've been going a little off the topic here and there.

Mr Mancini: You're right on.

Mr Valela: Starting with Mrs Fernandez, the lady who came to take the report at my residence after the date of the accident, she was good. She came, she took the report and everything, but I made a mistake on the report and I asked her to send me another one. We had some difficulties: I had to go up and get it. I asked her to mail it. I asked her to send it by courier. They won't send things by courier, which I disagree with, because the way I've organized my life is that I do the minimal running around. I let everything else be mailed to me, even my bank statements or the direct mail deposit I took advantage of back in 1979 or 1980, when I was employed by—well, I am employed by Canadian National Railway. I don't suspect I should be running around to go get my cheques, and all these other behaviours. I just don't like all this running around: I have to run around for Sun Life, for doctors' reports, my reports, for all kinds of different things.

They said about this new family act thing they're talking about that you lose the first \$5,000, or a \$15,000 deductible. I disagree with that 100%. None of this deductible here, it's just too touching to the heart. I can show you my skis, my fishing rod and my boots and all the fishing equipment that I'm going to try to show my children that there's more to life than running around, that you could spend your time on a hill, you can spend your time out on a boat, fishing, playing chess, doing things. Vanessa, in return right now—she's almost three years old—out of the blue, she'll come up to me and she'll say, "Daddy, my back hurts me," because that's what I say to her. She says, "I want to play horsy. I want to do things," and there are limited things that I can do. I feel pain in my leg.

I believe that the OMPP is a good one, but it can be modified also. So can the new one; it can be modified. The insurance companies are making millions of dollars. They've got houses in Switzerland, Mercedes Benzes, caviar in their cars. Of course, they're working 24 hours of the clock, because their company is striving to make money. But listen, I'm an individual too. I don't want to be

behind. I want to be fair, fair to me. I'm losing out on my RRSPs.

Interjection: Why?

Mr Valela: Because my contributions are as high as what they would have been if I was working. But the plan of the RRSP is the same as their request: How is it going to impact me in 25 years? If my contribution is \$3,000 this year, 25 years from now that contribution will grow and be substantially higher for me, for Sal Valela and his family.

The insurance company is using the adjusters to relay improper information. I'm phoning the Ontario Insurance Commission, and Mrs Paquette is the lady. Thank God that I've run into this lady, because she's helped me out. I would have banged my head against the wall, because it just seems like the insurance company's allowed to tell the insurance adjuster to inform information to me, like I'm not allowed to get the 80% of my premiums, I'm only entitled to either 79% or they're going to cut me off because of this, this, this and that, when the plan states that you get 80% of your gross pay tax-free. They even disputed that. I had to take out one of their flyers to show them that on the thing it states tax-free. I've got just so many papers. You talk about baggage. I've got my suitcase of baggage.

I really want to get back on to the point of disabled. This act does not show anything, or the previous act, to the people who are incurring a disability, and it hurts, because when I returned back to work in February, not only did I have to hold the pain of the automobile accident but also the pain that I have occurring in my right shoulder: bursitis, tendonitis, rotator's cuff. It's not an easy pain to live with.

I try to manage, I try to get above a lot of the cycle of things by just thinking of the future and moving on. I try to do a lot of things. I want to get better. I don't want to stay idle. I want to be active with my children. I'm missing Robert and Vanessa. I'm missing that thing of putting on the binders and the boots and going down the hill with them and appreciating it, even if it's just here on Bathurst and Sheppard on that little hill. Just to be active, to get back. It's not that I'm not trying. I'm trying my best.

But I don't need a runaround from the insurance companies telling the adjusters and then me phoning the Ontario Insurance Commission to find out what my rights are. As with one of the people in the Ontario Insurance Commission, I put in for my mileage. I still haven't got paid for my mileage. This is 1991. I was going to the doctors, physiotherapy, going back home and to the bank. These people were talking about that.

I took advantage of the system, when the system said that the Canadian National Railways put direct mail deposit. For me, that was beautiful. That was perfect. I never had to go to the bank, worry about my money. The money was always there. Now, when the cheques come to me, I have to take the extra mileage to go to the bank and deposit my money.

I didn't have to do these things before. I had my system. I had my way of living and standard geared in the best and suitable way to make my life better financially and get my financial statements and credits with standing

above triple A. I believe you shouldn't abuse or you shouldn't take advantage of the system and you should pay your rates and you should do what you can do and do it properly. That's basically all I have to say.

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The Chair: Sal, there was one thing. You never mentioned the accident. Was this a car accident or a motorcycle accident?

Mr Valela: It's a car. I was involved—

Mr Harnick: Rear-end collision.

The Chair: Rear-end collision, okay.

Mr Valela: A rear-end collision in a truck, where I was rear-ended. This is another thing. The TTC driver presented me with an invalid insurance licence. So I took it away from him and he never had one until the police came. After the police came and the other TTC insurance driver came, he presented the police officer with a valid insurance company. All this time that TTC driver was saying to me, "Give me back my insurance card," and I said to him, "No way, this is invalid, a month and a half invalid."

He was never tried for careless driving, driving too close, nothing at all. I even complained to the Ontario Insurance Commission. I've got my briefs here, if you're willing to photocopy them and go back into the briefs. It was what you might consider a minor accident. To who? To other people but not to me.

You've got to look at the individual I am. I'm already disabled. I'm trying to do a job and when I went back to work at Canadian National Railways, you know, they discriminated against me in saying that, "We're going to cancel your job as a painter because the diesel shop and the car shop don't really need a painter any more." In turn they were crying and complaining to the department I work out of that they did want a painter, that they did want someone to get in there and start painting all the safety lines, the safety rails, the walls that are full of grease and grime, paint them white. I was discriminated and I had to fight through my union.

That's another thing—Sun Life. I pay benefits for Sun Life. I shouldn't see why the insurance company should be getting away free. If I pay a little bit, they should be paying too, the insurance companies, like in better driving programs. I agree with a lot of these other people who were up here saying, "There should be better driving programs," no matter if you're 60 years old or 45 years old.

There should be a 24-hour RIDE program. You shouldn't be drinking and driving. You shouldn't be under some kind of medication that impairs you, even out of an automobile accident, that you take some of these pills. But then I'm the only one who really has the responsibility to take care of my family because Bruna was pregnant during the time. Vanessa was small. Robert in the beginning had a meconium of the lungs and, thank God, he recovered from that and right now he's a 22-pound baby, 26 inches, 27 inches. He's a large kid, and I have a hard time holding him up. I was having a hard time going to work, managing my painter's job with a disability in my shoulder, plus doing what I was able to do with the modified duties that

Doctor Ocana gave me to try to handle the job with my disabilities.

How come one insurance company sends me to a doctor and says that I'm all right and when I go to the other doctors they say to me that I have a problem, a muscular problem, an acute muscular problem, back strain? I can't understand that.

I'm a simple man. I'm a simple person. I want to lead on with my life. I want to be able to go skiing. I want to give Robert the chance, instead of just sending him out and giving him private lessons. I want to be there with him. I want to be there with both of my children. I want to be able to roll around in the snow and I'm doing that now with the pain and making my pain even worse, because I'll never gain that time, that time that you lose—three, two, one, four, five years old—with my children. You'll never regain it.

You are telling us that if you abuse a child, if you traumatize a child, the child will live with those scars. Well, how about us, 40, 50 years old? It doesn't stop there. The clock doesn't stop. The clock keeps on going all the time. Individuals, no matter if you're male, female, black, white, Croatian, it doesn't matter who you are. The clock keeps on going. I've got to try to make my life better with the injuries but I have to live with the pain.

An insurance company, a Mr Ross—over the holiday season I drove underneath the bridge. There was a company working there. They didn't have the bridge all tunnelled up and I got glass, chips and sand on my windows and now my windows are all scratched. The guy came in and he said to me it was my fault that I had chipped the windows. The insurance guy who came in said it was my fault that I chipped the windows.

Then after that, I went to go buy some groceries to have a little turkey to make my life better, bring the family over, get together at the house and feel better. I got my car. My car was smashed. Somebody hit my door. The guy came out and he goes, I hit the curb. This guy said to me that I hit the curb. These people from the insurance company, the adjusters, you just might as well say: "Hey, wait a minute. We don't need to pay you, Mr Valela. Thank you very much for your annual premium and you can go home now."

Interjection.

Mr Valela: I'm not saying NDP, PC or whatever. What I'm trying to say is that we've got to modify this plan. We've got to make it better for everybody and especially for our children, especially the people from St Michael's Hospital who have been up here who talked about doctors who make independent assessments. I will not let another adjuster in my house. Take note of that: never, never, Mrs Agresti or Fernandez. I will never let another insurance person in my house. I let Mr Jeff Taylor in because I was reaching the point that the only person who was helping me was Mrs Paquette from the Ontario Insurance Commission. I don't know what to say, but thank God for her; and my doctor, Dr Ocana, thank you also.

The Chair: Mr Harnick, we've just about run out of time there. You've got a minute or two.

Mr Harnick: I just want to let you know that under the Liberal scheme, for your injury, unless a court was prepared to say it was permanently serious, serious for ever, you'd get zero. Under the NDP scheme, you would get a certain amount of money because the accident wasn't your fault, a straight rear-end collision, but they'd take \$15,000 off.

Mr Valela: How about the threshold?

Mr Harnick: Most back injuries, unless you need some surgery, are worth maybe \$15,000 or \$20,000 after four or five years. So under the NDP scheme you'd get zero as well.

Now tell me something. You've told us that you're not able to give your daughter a horsey ride. You're not able—

Mr Valela: Oh, I do it but I do under pain.

Mr Harnick: That's right. You do it—

Mr Valela: I do it under pain. I won't let it go by. I won't let these two, three years of my life go by.

Mr Harnick: —and it's hard for you to hold your son. Tell me, what do you think about insurance schemes that won't compensate you a penny, not a single penny because you've lost enjoyment of your life and your family has lost enjoyment of their life? What do you think of those kinds of schemes?

Mr Valela: I disagree with that, but we could come to an agreement. Forget about Liberals, PCs or NDPs or Jack TNTs or IMBNGs or whatever you want to call the next federal cabinets or caucuses. Let's be open, gentlemen and women to meet and to collaborate and to let the insurance companies make money, but wait a minute. I want to have some caviar too, I want a Mercedes too, I want a house in Switzerland also and I want a jet airplane to take me or my tax-benefit company wherever I'd like to go too. Yes, these people do work 24 hours around the clock. They do deserve to make money but I deserve something too.

Mr Johnson: My question is very short and very to the point and it's kind of general, but it could be kind of specific. Basically, you've said a number of times, "This is a proposal that we're presenting here before this committee." We would like to know from all the people who make presentations what they think of it, and we've got lots of opinions with regard to that. You've said to modify it. I was wondering, do you have any specific areas, any particular thing about the proposal we make that you would like to see changed?

Mr Valela: Are you talking about the accident benefits revised—

Mr Johnson: That for example, yes.

Mr Valela: Under this thing, what I'm reading here is the 90%. No, I should be entitled to the same amount of money I was making—I was working at the Canadian National Railways—not a penny more, not a penny less. I should be entitled to contribute to my RRSP. They use the factor, how is this going to impact us under this new plan 30 years from now? Well, how about me and my RRSP 30 years from now? I'm not going to be able to contribute the

full amount, so that money won't be working for me; \$600 weekly and the old one is not indexed; the new one is indexed.

For people who have businesses and they're working on incomes, like that stuff you have to work out with these groups of people, meet with them open-minded, challenge their points, they challenge your points and go on. Part-time earners I'm not too worried about as of right now, unless I go into a part-time job somehow or another or something. For income earners, you say that this plan's going to cost from \$200 million to \$500 million. I'd like to know where? If the insurance companies are making—

Mr Kormos: From you.

Mr Valela: Wait a minute. Wait a second. I know it's from me, but what I'm saying is, if the insurance companies are making \$700 million, they should be able to lose too. They should pay into the RIDE program.

Mr Kormos: No, that's not how it works.

Mr Valela: Please, excuse me. They should be able to pay into the RIDE program because they want better safety programs, right? We should all pay into it. We should all be able to make better safety programs, everybody, the

whole system, because that's what they're after. They're after lowering the premiums, and if you go after that problem head on, you will lower the premiums.

I had one of the worst driving records around. I had to get down on my knees—

The Chair: Excuse me, Sal. Time has run out and I don't think you want the insurance companies to know that you've got a poor driving record.

Mr Valela: No, no, no. I have a good driving record now because I've curbed my standards.

The Chair: Okay, fine. I'd like to thank you for appearing before this committee. I understand you've been watching the procedures for the last couple of days.

Mr Valela: I have.

The Chair: We're glad to have had you with us here.

Mr Valela: I thank you very much for letting me speak and letting me present on my behalf.

The Chair: Okay, fine. Thank you. I guess we'll see the committee at 10 am in Thunder Bay. This committee's adjourned tonight.

The committee adjourned at 2142.

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- Sterling, Norman W. (Carleton PC)
- *Ward, Brad (Brantford ND)
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*In attendance / présents

Substitutions present / Membres remplaçants présents:

- Dadamo, George (Windsor-Sandwich ND) for Mr Wiseman
- Haeck, Christel (St Catharines-Brock ND) for Ms Ward
- Harnick, Charles (Willowdale PC) for Mr Carr
- Jackson, Cameron (Burlington South/-Sud PC) for Mr Sterling
- Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Mr Christopherson
- Klopp, Paul (Huron ND) for Mr Jamison
- Mancini, Remo (Essex South/-Sud L) for Mr Kwinter
- Owens, Stephen (Scarborough Centre ND) for Mr Sutherland
- Tilson, David (Dufferin-Peel PC) for Mr Sterling
- Winninger, David (London South/-Sud ND) for Mr Christopherson

Also taking part / Autres participants et participantes:

- Kormos, Peter (Welland-Thorold ND)

Clerk pro tem / Greffier par intérim: Carrozza, Franco

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service

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ISSN 1180-4386

Legislative Assembly of Ontario

Second Intersession, 35th Parliament

Official Report of Debates (Hansard)

Monday 1 February 1993

Standing committee on finance and economic affairs

Insurance Statute Law
Amendment Act, 1993

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Journal des débats (Hansard)

Lundi 1 février 1993

Comité permanent des finances et des affaires économiques

Loi de 1993 modifiant des lois
concernant les assurances

Chair: Ron Hansen
Clerk: Tonia Grannum

Président : Ron Hansen
Greffière : Tonia Grannum

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Monday 1 February 1993

The committee met at 0930 in the Valhalla Inn, Thunder Bay.

INSURANCE STATUTE LAW AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LES LOIS CONCERNANT LES ASSURANCES

Consideration of Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters / Loi modifiant la Loi sur les assurances et certaines autres lois en ce qui concerne l'assurance-automobile et d'autres questions d'assurance.

The Chair (Mr Ron Hansen): Good morning. I'd like to welcome you all to the standing committee on finance and economic affairs. We're on day one of travelling and on day four of the hearings on Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters.

ORGANIZATION FOR THE MULTI-DISABLED (THUNDER BAY)

HEAD INJURY ASSOCIATION OF THUNDER BAY

The Chair: I'd like to call the first group forward. It's the Head Injury Association of Thunder Bay and the Organization for the Multi-Disabled (Thunder Bay) Inc. Would you come forward, please, and take a seat. For the purposes of Hansard, would you identify yourself and your colleagues and you can start. We have until 10 o'clock, and if you can leave 10 or 15 minutes at the end of your presentations for questions from the committee also.

Ms Alice M. Bellavance: I'm Alice Bellavance, and I'm the executive director of the Organization for the Multi-Disabled. We're a community re-entry service that provides community-based rehabilitation services for those individuals living with the effects of acquired brain injury, which in many cases is traumatic as the result of a motor vehicle accident.

With me are Birthe Ligate, the president of the Thunder Bay Head Injury Association, and her son, Kris. As well as being involved with the Head Injury Association of Thunder Bay they are on the board of directors of the Organization for the Multi-Disabled.

The Organization for the Multi-Disabled and the Head Injury Association of Thunder Bay appreciate the opportunity to address this committee and share our commendations and concerns regarding the Insurance Act in respect to automobile insurance.

In order to understand how this legislation impacts on individuals living with the effects of traumatic brain injury it is also imperative that individuals understand the nature of injury to the brain itself. It is permanent. Once a brain

cell is damaged or destroyed, it will not regenerate and the functions performed by that cell are lost.

Damage to the brain need not be severe or catastrophic to be life-altering. Trauma to the brain can cause subtle cognitive and behavioural changes and can occur even when there is no direct blow to the head. According to the current literature, a permanent brain injury can result from an individual being thrust forward and backward in an automobile accident, known as coup contre coup or whiplash, without actually striking the windshield. Many professionals call this "minor head injury," should it be diagnosed.

Damage to the frontal and temporal lobes is often common following this type of automobile accident as well as others. The frontal lobes of our brain control executive function. Executive function controls our ability to attend, concentrate, be tolerant, make good judgement, initiate, be motivated, be in control, and our ability to think in the abstract.

When individuals sustain injury to this area of the brain, they may have ongoing sequelae with dizziness, headache, fatigue, depression, an intolerance to alcohol and related substances, sleep disorders, irritability, intolerance to noise, and the list can go on endlessly. As well, cognitive deficits caused by injury to the brain often alter the individual's ability to understand his environment, and the individual often experiences difficulty with information processing. This then can lead to an inability to respond appropriately to the environment and events in their life.

When these very real results of brain injury go unrecognized and are not treated, they often lead to disruption in the individual's work environment and family relationships. I have had many individuals living with the effects of brain injury say to me that they felt they were going crazy. These are often identified as hidden or invisible disabilities, and individuals living with this type of injury are often referred to as the "walking wounded."

In the US as well as in the province of Ontario, we have now been able to identify that this is of epidemic proportion. Just to know what the numbers are like, 200 of every 100,000 individuals sustain traumatic brain injury in this province, and there are pockets where that average is even higher. If you're having hearings in Sudbury, Ontario, you'll probably hear what those numbers are, because the Ontario Head Injury Association just completed a significant package of research. There's a section of highway where the numbers are double that average, so this might say something about the highway.

Due to the fact that there is no visible disability, the individual is often perceived by the people around him as normal and they have expectations that behaviour will be appropriate. Due to neuro-cognitive damage, this is

impossible and individuals are then often perceived as being uncooperative, having a bad attitude or malingering or other such oppositional or behavioural labels. Medical professionals without the necessary expertise in brain injury often diagnose individuals with these symptoms to be neurotic or overanxious when what they are really experiencing are cognitive and physical sequelae resulting from permanent injury to the brain.

The two areas that I wish to speak to specifically are attendant care benefits and access to appropriate rehabilitation.

Attendant care benefits: Attendant/personal care for someone who has sustained injury to the brain can vary, requiring a few hours per day to 24-hour support, depending on the severity of the injury and the outcome of that injury in terms of disability. Limited periods of time may be required for this type of care and support; however, it can also be a lifelong need.

Under the current proposed amendments, the cost is being limited to \$3,000 per month. An Ontario Head Injury Association survey shows that supportive life costs require an average of \$200 per day for someone with disabilities resulting from an injury to the brain when there are no behavioural difficulties. However, add behavioural difficulties to this and the cost could rise to as high as \$600 per day.

When we look at the current rates paid out in the public sector, for example, the per diem cost of low-end chronic care facilities of \$200 per day, this works out to a cost of just over \$6,000 per month or \$73,000 per annum. However, a more conservative cost of institutional care, whether it be acute, chronic or psychiatric care, is about \$360 per day. Then the cost escalates to \$11,000 per month or \$131,400 per annum.

Due to the fact that the current system does not have the capacity to provide individualized, lifelong, portable and flexible services required by individuals, they often are relegated to the back wards of chronic care facilities and psychiatric facilities, putting an additional drain on the public sector.

With all of us being in tune with the escalating health and social care costs in this province, this needs to be addressed. When I, as an individual citizen, pay for insurance benefits for my home and it succumbs to fire, I anticipate that the insurance I paid out will allow me to replace my home. If I become injured in a motor vehicle accident, I would anticipate that my insurance would allow me, first of all, to be able to access in an expeditious fashion the types of rehabilitation options I may require to return to the optimum pre-accident functioning. Should that not be attainable then I would expect to have resources at my disposal to live as independently as I can with the supports that I require for the rest of my life.

In a continent that has been known to institutionalize people at an unprecedented rate, the current proposed benefit for attendant/personal care is totally inadequate. I ask individuals in the government and in the insurance industry to stop and think if it were themselves or a family member whether this is indeed the outcome that they would want to see for their loved ones.

Many of us over time do not need to access benefits that we pay into. However, a limited number of individuals do and should be provided with the opportunity of accessing real supports. The current system is not a win-win situation and impacts on real lives and real people who then face physical hardship, mental devastation and economic ruin.

It is our recommendation that the attendant/personal care benefit be a minimum of \$4,500 per month and that it be indexed.

Access to proper rehabilitation: We, the Organization for the Multi-Disabled and the Head Injury Association of Thunder Bay, are pleased to see that the proposed benefits see no lifetime cap on supplementary medical and rehabilitation costs as well as no time limit. It has been demonstrated over and over again in the literature and programs that if an individual, for example, is age 16 when he or she is injured, his or her rehabilitation period may not end at 10 years, which was the case in the current system. That would therefore limit access to these benefits. Also, the costs of lifetime support or care certainly cannot be met with the \$500,000 amount, but then that's now offset with the new proposal in the attendant care section.

In expanding the benefits under the new system, which we support, we also have a foreboding concern in that when the initial system was announced there was a proliferation of private for-profit rehabilitation companies and/or individuals that came into the marketplace. Much as we are in support of private enterprise, we question to whom these private companies are accountable in terms of quality assurance and standards of practice.

In the publicly funded sector, we are currently in the process of addressing the fact that we have to provide efficacious programs and services to those we purport to serve and that we are accountable to our funding source, ultimately the taxpayer of the province. There are many private rehabilitation companies that have rehabilitation or medical consultants in their employ who truly work in the best interests of the clients and take the onus upon themselves to develop some knowledge and skill when they provide case management services to individuals living with traumatic brain injury. However, there are a small number of individuals who really do not understand the sequelae following head injury and thereby do a great disservice to the individuals they represent.

We recommend that the insurance industry, along with experts in the field, provide a range of educational opportunities to develop and/or enhance their skill and knowledge in this field.

0940

In a news release dated January 18, 1993, from the Ministry of Financial Institutions, the heading indicated that the minister was establishing a task force on auto insurance. I quote:

"The mandate of this task force was to develop regulatory standards which are sensitive to the concerns of both the costs and the needs of appropriate rehabilitation services. I have also asked for recommendations on the appropriateness of, or alternatives to, the monthly attendant care cap. I

look forward to receiving the recommendations of the task force at the end of April."

In reviewing the list of names that the Honourable Mr Charlton announced, my two questions are (1) where is the representation from the consumers who speak on behalf of individuals with head injury, and (2) where lies the expertise on behalf of the professional sector in terms of individuals living with traumatic brain injury?

In consultation with the Ontario Head Injury Association, a literature review was requested for Dr Amies, Dr Corey and Mr Samis and, with no disrespect, none was found.

Currently the Ministry of Health has two advisory committees: one to address issues in acquired brain injury and the other in rehabilitation. Both of these committees are representative of the expertise in these fields in our province. Neither committee was approached with a request for a representative to this task force, nor was the Canadian Association of Rehabilitation Personnel or Chedoke-McMaster Hospital, which is the designated acquired brain injury program in the province.

Going back to my first question, what about consumer representation? The following groups could have been but were not approached: the Canadian Paraplegic Association, the Canadian Head Injury Coalition and the Ontario Head Injury Association.

Further to the fact that there may be a proliferation of qualified and educated personnel employed by the insurance company or rehabilitation corporations, the burden of wading through the morass of documentation and examination and mediation and arbitration procedures still lies with the injured person. When I, as a service provider, think about the challenges I am faced with on a day-to-day basis in dealing with the system, I can't imagine what it would be like for an individual who has to adjust to the life changes caused by head injury. It would appear to create a win-lose situation, with the insurer winning.

Since one of the outcomes of traumatic brain injury often deals with the issue of insight, the individuals themselves may not feel they have a permanent, ongoing disability and have restrictions on their lifestyle and that they have the capacity to return to their pre-morbid state of living. For the most part, for a short period of time they may be able to present in that fashion. However, in the long term, they may not be able to meet the demands of day-to-day living and thereby begin a downward spiral.

When barriers are placed upon the individual in terms of accessing appropriate mediation or supports or if he or she is working with an individual who is not educated or qualified in the field of head injury, the ability to receive effective treatment is severely compromised. Although individuals employed by the insurer may assist the client to complete forms etc, it must be remembered that there is somewhat of a conflict of interest, as it would be in the representative's responsibility realm to save costs on behalf of the insurance company. This would also constitute a manner of legal and ethical conflict of interest.

Should an individual seek to go into mediation with the insurance system, the insurance system is in a better position to afford the best legal counsel, and thereby again success

is weighted in its favour. When individuals sustain neuro-cognitive impairments because of injury to the brain, the situation is much worse. Without legal counsel and/or funds to pay for expert witnesses that are equal to those of the insurance company, the injured individual literally has no hope of winning an arbitration or mediation hearing. We recommend closer collaboration with existing bodies of expertise, thereby setting the stage for a win-win scenario for all.

I'd like to thank you again for this opportunity. If you feel we can provide you with more input into this process, we certainly would like to provide that.

Mr Gerry Phillips (Scarborough-Agincourt):

Thank you for the thoughtful presentation. The area I want to get your further comment on is rehabilitation. As you were leading up to your recommendation, I kind of thought you were recommending a closer scrutiny of standards and what not, but the recommendation, at least the words in the recommendation, were slightly different than that. Maybe you could just help me along a little bit with what you mean by, "We recommend that the insurance industry, along with experts in the field, provide a range of educational opportunities."

Ms Bellavance: That's one component of it, and I suppose I could have been very specific around the standards as well. Maybe it's not common knowledge at this point, but the two advisory committees that I mentioned are currently working to address those issues of standards that hopefully will apply to both the public and the private sector. That was knowledge that I just gained on Friday, but this was already typed. I'm hoping that will address it.

Mr Phillips: I actually thought that's what your recommendation was when I was listening to you, that it was going to be around closer scrutiny.

Ms Bellavance: I think it has to be twofold. You have to have the education to have the skill and the knowledge, and then you can develop the standards as well. If you don't know what you're working towards, it's difficult to develop standards. So you have to do both, hand in glove. I just received a call from the Ministry of Health, and I believe there's going to be a workshop March 4 with the Ministry of Health, with some of the experts in the field, along with the insurance industry, to look at how we can develop those types of standards.

Mr Phillips: That's useful. Thank you.

Mr Remo Mancini (Essex South): Can I say to the organization that your brief is quite good. The head injury organizations must be working closely together, because we heard from the Chedoke-McMaster people in Toronto and they had quite an outstanding brief too. I would like to say to you that I appreciate the information you've given us concerning attendant care, rehabilitation, the possibility of moving ahead with important educational matters etc, but you haven't touched at all on what Bill 164 does for people who are severely, permanently injured or disabled in regard to their economic loss.

Are you aware that this bill takes away the rights of all people to sue for economic loss? In some of the examples that you've given in this particular brief, one

would assume that a person could sue for economic loss for hundreds of thousands of dollars.

Ms Bellavance: That's right; they could have. My understanding in reviewing the number of documents that have been put out by the government is that—

Mr David Tilson (Dufferin-Peel): Don't believe everything you read.

Ms Bellavance: Okay. Under the current system, my understanding was that basically only 5%, who could meet the threshold, still had the ability to sue.

Mr Mancini: But that's for non-economic loss.

Ms Bellavance: That's for non-economic loss.

Mr Mancini: It's for pain and suffering and serious and permanent disabilities. Under the old legislation, which these people are going to change, those people also have the right to sue for economic loss. We're going to be the only jurisdiction in North America that has taken away the right of people to sue for economic loss. No other state, no other province in North America has—

Mr Stephen Owens (Scarborough Centre): That's not true.

Mr Mancini: Can I please have the floor without interruptions from the parliamentary assistant?

The Chair: Go ahead.

Mr Mancini: We're going to be the only jurisdiction—

Mr Owens: Point of order.

The Chair: Mr Owens?

Mr Owens: Quebec also does not allow suits for economic loss.

Mr Charles Harnick (Willowdale): Wrong.

The Chair: I'm sorry, Mr Mancini has the floor now.

Mr Mancini: Not only is that not a point of order, Mr Chairman, but that's incorrect. The parliamentary assistant doesn't even know what he's talking about.

Mr Harnick: You have to buy insurance to protect yourself—

The Chair: Mr Mancini, your time's getting eaten up, so go ahead.

Mr Mancini: I can't help it if the parliamentary assistant keeps interrupting with false information. This group has come to us and this group has made a very solid presentation on matters that concern people who you're trying to represent. I've had a long history of working with head injury organizations and I know the work that you do, and I know that young people, factory workers, people who have a career ahead of them, are going to be big losers under Bill 164 because they're losing the right to sue for economic loss. If you had a son or daughter in university—

The Chair: Mr Mancini, you have 30 seconds left.

Mr Mancini: —and if this son or daughter in university had a career ahead of them, don't you think they should be able to sue for the amount of money that they could have made in their lifetime if they're injured and if they're not at fault? I think that's only fair. Wouldn't you tend to agree?

Ms Bellavance: I'd tend to agree.

Mr Tilson: I'd like you to tell me a little bit about who's going to act for the people you represent, specifically if you're dealing with insurance companies, if this terrible bill is passed.

There's no question that one of the big issues, I guess, that you're thinking about is, will your people qualify to go over the \$15,000 deductible? Probably many of them will. But if they don't, there's that whole issue of economic loss, which is probably your major thought, the individual who doesn't receive anything for loss of future income, absolutely nothing for loss of future income. That's the major blow to your individual who may partially recover but will never be adequately compensated for the loss of wages. That's the most dastardly thing that this bill is doing to the people you represent.

0950

Having said that, you're looking at the whole issue of benefits that this package, this unbelievable—I don't know where they are, but they're about that thick of regulations. Who is going to explain these terrible regulations, these regulations that even the insurance companies, the lawyers, almost every group that come to us says they don't understand? Who's going to explain those regulations to the people that you represent?

Ms Bellavance: That was part of the problem with the current system, in that no one could represent the individual because most lawyers, individuals who had an understanding of all the legalese in the legislation, who could explain it, often chose not to take these clients on because there was no point if they didn't meet tort. If they didn't meet tort—

Mr Tilson: They're gone.

Ms Bellavance: —there was no cause for suing; therefore, there was no remuneration.

Mr Tilson: It doesn't matter that there's no money for the lawyers; no one is going to be representing these people. That's the whole point.

Mr Harnick: So why don't you change the bill so that somebody can represent these people?

Mr Tilson: I guess the whole question of dealing with that whole process at that time—are you saying that you don't believe that the way the legislation has been put forward, there's no one to represent these people in dealing with the claims adjusters specifically? Because that's who they're dealing with.

Ms Bellavance: That's right. We have come across a number of situations. We're very fortunate in some ways in Thunder Bay in that we're somewhat smaller. We happen to know a lot of the individuals who are involved with the companies, and they do make it their business to know what is available and they do act in the client's best interests.

There's a very small number, if any, in this community who don't act in the client's best interests, but I hear horror stories all the time where these individuals will rush a client through the rehabilitation process, sort of do a down-and-dirty job, and be able to close the file, thereby saving the insurance company all kinds of money.

Mr Tilson: I don't mean to be indirectly taking shots at the insurance companies, because I think they're going to be put in a very difficult position.

Ms Bellavance: Sure they are.

Mr Tilson: The insurance companies are saying that because of this bill, rates are going to go up 20%. The minister says: "No, they're not. They're not going to go up a dime."

Ms Bellavance: They're going to go up 4%, or the projection.

Mr Tilson: Well, that's one of their figures: 4% to 20%. Whether it's by 4% or 20%, they're going up. The fact of the matter is, the minister says they're not going up. So we can easily see that the squeeze is going to be put on the insurance companies.

Ms Bellavance: But there has to be a balance. Excuse me, sir. There has to be a balance between the no-fault system and the adversarial system. If there isn't a balance and there is all kinds of suing going on, the insurance company is still paying out, which is still going to impact on our premiums.

Mr Tilson: You misunderstand what I'm saying.

Mr David Winninger (London South): I think she understands perfectly.

Mr Tilson: You misunderstand what I'm saying. What I'm saying is that it's going to become more and more difficult for the insurance companies to provide the package the government wants, and because of that, who's going to represent these people? Because it may not get as easy as you're saying. Is one of your major messages, who's going to represent these people?

Ms Bellavance: It's one of the messages, yes. Who is going to represent the individual?

The Chair: I'm sorry, but you've run out of time.

Ms Christel Haeck (St Catharines-Brock): Thank you, Mrs Bellavance, for your very competent and articulate presentation. It's going to help us with our work. The kinds of comments that you make here obviously are going to help the Ministry of Health deal with some of the rehabilitative concerns, and the task force, because obviously that's a group that you should be talking to as well, and we'll pass on your concerns.

I did want to just take a brief moment to indicate some of the things that our colleagues in opposition have been suggesting, which possibly represent their view but not necessarily the reality of what is being proposed.

Let me just state that in the case of economic loss, the Quebec plan—and this quotation is taken from Hansard of last week, a question by Mr Johnson: "I understand that there is no right to sue for economic loss in Quebec. Is that correct?" The representative from the insurance company from Quebec said, "That is correct." Then it continues, "Are people happy?"—

Mr Harnick: On a point of order, Mr Chairman: I don't mind if Ms Haeck quotes the evidence, but she's got to go through and quote the whole thing because the brief—

Interjection.

Mr Harnick: Now let me finish.

The Chair: It's not a point of order.

Mr Harnick: It is a point of order if she's misrepresenting the evidence. Now let me finish.

Ms Haeck: No, I'm not, Mr Harnick. I have a right—

The Chair: Let's see what the point of order is.

Mr Harnick: Let me finish and then you can rule me out of order. But the fact of the matter is that the brief specifically said that people in Quebec can purchase insurance from their own insurance company to protect themselves from excess economic loss. The next step that evolves from that is the fact that if you have a dispute with your insurance company over the value of that excess economic loss, you can sue in a court to obtain that money. The fact of the matter is, here you are taking away the right to purchase excess economic loss insurance.

The Chair: I'm sorry. You got your point across.

Mr Harnick: If she's going to quote the brief, she'd better be accurate.

The Chair: Ms Haeck.

Ms Haeck: Thank you, Mr Chair. Also, with regard to the kinds of things—I'm sorry for these kinds of things but this happens, as you can understand, all the time.

The Chair: Ms Haeck, just carry on.

Ms Haeck: The regulations that are part of this bill are much more complete and therefore more lengthy than the previous bill because it covers many more people. It will in fact cover those individuals, like the people you serve, those people who have acquired brain injury, those people who do have psychological and emotional sequelae.

Interjection.

The Chair: I'm sorry. Ms Haeck has the floor.

Ms Haeck: I would think that under those circumstances the kinds of comments you've made and that the St Michael's Hospital head injury group has made—in fact they concur with many of your comments—this bill will cover your clients almost immediately, and not in the tort system as has been described by Mr Harnick. Your clients will be able to get the rehabilitative services that they require immediately upon having had the accident.

Ms Bellavance: I guess that's the other thing I want to comment on. In the tort system, when people are trying to access services, unless it's stuff they need to get under the Public Hospitals Act and get it in the hospitals, they may not get it.

We've just had a perfect situation with an individual who is under the system before OMPP where he definitely meets threshold. He's got severe physical and cognitive impairments and he needs to access specific services that aren't covered under OHIP, such as neuropsychological services, or if he needs speech therapy he has to wait two years because the public system doesn't have enough resources so they can buy it privately.

This young man could not access it because the insurance company wouldn't pay it because they were going to sue the insurance company. They weren't going to pay out

any benefits for this gentleman's rehabilitation. He is three years post-injury. His needs are much higher than what we can provide.

He gets shipped up here from northeastern Ontario because our catchment area is that large, and we had to ship him back in chemical restraint, in air ambulance, back to his home community because we couldn't serve him. What he needs is what Chedoke can offer, but it has a waiting list of two years for its six-bed unit. Now you tell me that's fair.

The Chair: Okay. I'm sorry. Time has run out. I'd like to thank you for your presentation before this committee.

While the other group's coming forward, maybe with the clerk we can get some clarification on checkout time. Is there going to be a room available at the front to bring our bags? Okay, you can put your baggage in room 204 or the front lobby.

1000

STANDARD INSURANCE BROKERS LTD

The Chair: Welcome. Take a seat, sir. I'd like to welcome you to the standing committee on finance and economic affairs. We have one half-hour. In that half-hour can you leave some time at the end for questions, and we'll start off with Mr Tilson as soon as you've finished your brief.

Mr John Berringer: Ready to go?

The Chair: Go right ahead.

Mr Berringer: Mr Chairman and committee members, welcome to Thunder Bay, in the great northwest. We're happy we have some warm weather for you, as opposed to what happened last week.

Thank you for allowing me this opportunity to express some views on Bill 164. My name is John Berringer and I am the president of Standard Insurance Brokers. Our offices are located in Kenora, Dryden and Fort Frances. We employ 31 people in our organizations.

Today, I would like to address some of the issues surrounding Bill 164 and leave time at the end of my presentation for questions and discussion.

Firstly, let's talk about cost. As we speak, prices for automobile insurance have stabilized greatly, and many of our clients are seeing their renewals issued at lower premiums than last year. Price does not seem to be an issue at this time, certainly in our area. However, those insureds who, for one reason or another, have poor driving records and find themselves either surcharged or exiled to the Facility certainly raise their voices regarding their premiums. On the other hand, good drivers should not be expected to subsidize these drivers to a greater extent than they are presently doing.

Let's face it: Every professional insurance broker in this great province, and I dare say in all of Canada, wants to sell the best product he can to his clients. Price, though, becomes an issue. Not everyone can afford the products proposed in Bill 164, but we all can and should work together to put in place improvements in the product that are compatible with cost.

We don't hear complaints in our office about the cost of automobile insurance since rates have stabilized, and the competition is still alive and well, certainly in the northwest. Both Mercer's study for the government and Wyatt Co's for the insurance industry indicate that costs are going up for OMPP as it is now, and after Bill 64, premiums will be higher than they are at present. How much is anybody's guess; we don't know yet. Every product, be it a lawn chair or an insurance policy, has a price, and it is based on its various component parts.

Now let's talk about complexity. Bill 164 is complex, all 68, 69 or 70 pages of the draft legislation. Bill 164 will be costly and difficult to understand and administer. We must have a system that is easy to comprehend and relay to our clients. It is my belief that if, through legislation, you attempt to define each and every accident scenario, this will lead to strict interpretations. But we're all human, and what happens when someone falls through the cracks? When coverages are described in general terms, then coverage is provided unless specifically excluded.

There have been considerable discussions about increased benefits, but let's really look at the root of the problem: What puts premium costs up? What's happened to Bill 39? The Road Ahead places a strong emphasis on the need for safer roads as a key to reducing insurance costs, let alone social costs. Road safety, changing driving habits and continued education is at the heart of everything we are talking about here today.

New Brunswick is moving towards graduated licensing. New Zealand has had this in effect for many years.

Drinking and driving is becoming socially unacceptable in many regions of our country, and the use of seatbelts is on the increase. This did not just happen, but rather came about through education. A reduction in accidents would not only save lives but cut down on medical emergency service and court and insurance costs.

The proposal to let clients sue for both economic and non-economic loss is contrary to the concept of no-fault insurance and will lead to increased costs. Deductibles are always subjective and don't necessarily serve the purpose they were intended to do.

Approximately 6% of claimants for compensation for economic and non-economic loss obtain tort access at the moment. It is estimated this will rise to 18% under Bill 164. The real winners here will be lawyers and at-fault claimants who will recover more than under OMPP, through higher benefits. The losers will be the consumers, who will pay more in the long run for this insurance.

OMPP has worked well for the last two years. The marketplace is much better than in the past, with premiums stabilized and claims being settled quickly. We do not see many unhappy insureds in our office with complaints about the product or treatment received from the industry.

As an insurance broker I wear two hats. One, of course, is for my clients, the insureds. The other is for my source of product supply, the insurance company. The withdrawal provisions, as set out in Bill 164, establish a dangerous precedent in that they impose very strict limitations on these carriers. If I lose an insurance company now or in the future, considerable disruption results, both inside

my office and also for my clients, the insurance public. Also, this legislation sends out a very negative message to the business community at large and I urge you to review this area of Bill 164.

The Chair: Mr Tilson.

Mr Tilson: The reason why OMPP was, of course, introduced was because rates were on the increase and the principle of OMPP would be, yes, there would be fewer rights but that payments would be down.

Mr Mancini: Why don't you let him finish?

The Chair: I'm sorry. I haven't got a copy of your brief. I took it that you came to the end.

Mr Berringer: Not yet.

The Chair: Okay, then carry on. I'm sorry, I'm without a copy.

Mr Berringer: I'm almost finished.

The Chair: Okay, fine.

Mr Tilson: What do you want us to do, Mr Chair?

The Chair: Let him carry on. You paused at the end. I thought you were done. I'm sorry.

Mr Berringer: Brokers and insurers are working to improve the product all the time. For example, in June of 1992 the industry made a commitment to ensure that all Ontarians injured in automobile accidents would have access to standardized rehabilitation procedures wherever they live. Also, under OMPP the Facility continues to be depopulated without government intervention. The industry continues to work with the Minister of Transportation to develop the Ontario Road Safety Corp, and of course I mentioned graduated licensing.

Bill 164 contains some positive suggestions as well. For example, education disability benefits and retraining funding improvements are positive. Getting an injured person back to work should be first and foremost on everyone's mind.

Finally, let me leave you with a thought. I started my insurance career in Manitoba prior to the NDP introducing public automobile insurance. This has turned into something less than a perfect solution for the automobile public in Manitoba. More importantly, the last New Democratic government in Manitoba went down to defeat partly because it had a strong hand in establishing and implementing automobile insurance premiums. Mr Harcourt in British Columbia is also under some criticism at this moment. At present there are approximately 170 auto insurers in the province. Competition is keen. No one controls more than 10% of the market. Why do you want to have cabinet involved in rate setting? Why not distance yourself from it? Thank you.

The Chair: Mr Tilson.

Mr Tilson: Yes. How much time do we have for questions?

The Chair: Close to seven minutes.

Mr Tilson: Is that seven minutes each?

The Chair: Close to it.

Mr Tilson: The reason why OMPP was introduced, of course, was because there was a great concern with the increase in insurance rates. OMPP came along and the

result of OMPP was that people had fewer rights, and supposedly rates should go down. Well, they didn't go down. In some cases the insurance companies are saying they're going down, but they haven't always. Now we have a new bill that's come along and it's supposed to provide new rights, new reforms—reform the whole system. The difficulty, of course, is that we're guaranteed that rates are going to go up. They're going up anywhere from 4% to 20%. We're also certain that they're going to have fewer rights. People are going to have fewer individual rights, the innocent accident victims.

So, I must confess that the whole philosophy of this government that opposed OMPP when it was in opposition is now almost going in reverse. It's like they've done a complete reversal and are going backwards in time.

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): That's your opinion.

Mr Tilson: Well, that's exactly what you're doing. So I guess my question to you is, having said that, at the same time—and I keep harping on what the minister has said to the insurance industry—you and the insurance industry are saying rates are going up. The minister has guaranteed us that rates are not going up. They're not going up, and there are at least two different ways I know of, and maybe the minister has some other ways that he hasn't revealed to us yet, that rates are not going to go up. What is that going to do to this whole process? What's it going to do to the insurance business and what's it going to do to the innocent accident victim?

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Mr Berringer: Clearly, from a broker's standpoint, if you enhance the product, someone has to pay for it. Clearly, from our perspective or from my perspective, where I sit now, the system seems to work well. It's not perfect, but no system is perfect. But it seems to work well and costs seem to be contained. I think if you enhance and broaden out the coverages, like you're proposing on one hand, and taking certain things away on the other, but generally it's a broader package, it's going to cost more money.

The proposal in Bill 164 to limit the claimant's ability to sue for economic loss of course is negative, and that's going to put some hardship on certain individuals who find themselves in that unfortunate position.

Mr Tilson: Really, my question was directed to the issue of rates and how the system's going to operate. The insurance company needs to have money to make this system operate. The government isn't going to let you acquire the moneys that are needed to operate these very expensive benefits. The minister says rates are not going up. My question to you is, what's going to happen to the insurance companies that are going to be carrying these very expensive benefit packages if the minister carries out his threat?

Mr Berringer: I'm not an insurance company person, but it would seem to me that they will restrict their offerings and withdraw from the province. They have no choice. You can't run a business and lose money for ever.

Mr Tilson: Mr Harnick has a question, Mr Chairman.

Mr Harnick: Sir, in your experience, have you found that the rates of accident benefit payments—in other words, the \$600 a week, and the various levels of payments under OMPP—through your experience with your insureds, are adequate levels of benefits under the no-fault aspect of the OMPP?

Mr Berringer: Generally I would say that's true, yes.

Mr Harnick: Have you found that people's weekly incomes have suffered because those rates are not high enough?

Mr Berringer: No.

Mr Harnick: And would you agree with me—you say people generally aren't complaining—that if they change this system and they implement Bill 164, which takes away the rights of innocent victims to claim for their actual economic losses, that in fact you're going to start hearing from insureds who've been seriously injured, saying: "Why can't I claim my excess loss? I was innocent"? Do you think that'll become a problem?

Mr Berringer: I think you're probably right. We don't see many claims that go through what we'd call the threshold, generally speaking.

Mr Harnick: Because it's pretty high.

Mr Berringer: It's very high, and there was considerable thought into this process when it originally began, to set these numbers and figures at an appropriate level that seemed to work. But I think, certainly, you're right. People will be unhappy when they're stuck.

Mr Harnick: Would you agree with me as well that under the OMPP it's been a relatively successful system, except that the threshold has been too high, and if there's anywhere you're hearing complaints they're complaints about the high threshold, "Why have they taken away my right to sue? I'm seriously injured," that kind of thing, right? Yes or no.

Mr Berringer: Yes.

Mr Harnick: Just one other thing. When Mr Tilson was asking you, you indicated that with an enhanced product you would expect people would pay more or that the cost of the product, because it's enhanced, would go up. Just in our little discussion between you and me, the fact that we've zeroed in on this taking away the right to sue if you're innocent, to me, that doesn't enhance the product. What I see with Bill 164 is a more complicated product, a product that takes away more rights from innocent victims and in fact is going to end up costing us more. Would you agree with that?

Mr Berringer: The product will cost more, I think, because if you look at the other side of the equation, with the ability to go back and sue now for pain and suffering, subject to a \$15,000 deductible, I think that's going to blow it up.

Mr Owens: I'd like to thank you for your presentation. I'd like to address a couple of things you mentioned in your brief. First of all, you mentioned that the depopulation of the Facility Association is ongoing, without the assistance of the government. Are you aware that an agreement was reached with the Facility Association and the

Ontario Insurance Commission as to how that depopulation would take place, and the categories by which people would fall into the FA rather than what currently happens under OMPP?

Mr Berringer: Yes.

Mr Owens: All right. In terms of costs, you're talking about benefits versus costs. Do you think it's reasonable under the current plan that some of our most catastrophically injured, perhaps some of those who were addressed by the head injury groups today, are capped at \$500,000?

Mr Berringer: The problem really becomes, where do you set a cap that's reasonable and compatible with what the product costs? I think you have to set a limit somewhere, because when you exceed that amount of money, whatever that amount of money is, then really that particular individual moves to a different—

Mr Owens: So it would be your view that if a person at the age of 16, shortly after getting his or her driver's licence, is involved in an accident and that individual is catastrophically injured, say, at around 30, that person would be left to hang out to dry.

Mr Berringer: We have a social responsibility in this province and this country to look after people, and we do.

Mr Owens: In terms of the indexation of benefits, do you believe it's a good thing that benefits are indexed?

Mr Berringer: There again, I think you have to set a limit to how far you're going to go.

Mr Owens: The benefits index with respect to CPI and rates of inflation: Is that a reasonable measure to take?

Mr Berringer: Yes.

Mr Owens: You're aware that we've done that?

Mr Berringer: Yes.

Mr Owens: Just in terms of dependant care benefits that we've extended to working people—also increasing the dependant care benefits of those who are not working—do you think that's a reasonable extension of a benefit?

Mr Berringer: Yes.

Mr Owens: All in all, in terms of the benefits we've talked about in this short time that we have together, do you think that's a reasonable enhancement of benefits that people would require in fact if they became victims of an accident in this province?

Mr Berringer: Within limitation.

Mr Paul Klopp (Huron): Thank you for your brief. On one of your pages you talked about the withdrawal provisions. In the first draft that came out from the ministry, are you aware that in further consultation with the industry it changed that regulation and has amended it to with just a notice of withdrawal? Are you aware of that, first off?

Mr Berringer: Not totally; I haven't read it.

Mr Klopp: That was one of the issues, that they have to give a timely notice. I guess the commission actually reviews it and then can delay it for a further maximum of 90 days, but cannot stop them if they want to move out of an area.

You as a broker, but I as one of your people who has insurance—I have known people who all of a sudden were

told, like an hour after that: "Oh, the insurance company doesn't want you any more. They sent a letter yesterday. Didn't you get it?" Do you not agree that this puts people in a really bad position, maybe even yourself, with an insurance person phoning you up and—

Mr Berringer: Short notice is difficult. There's no question about it.

Mr Klopp: I think it's a fair thing for the industry to give good, long-range notice to you as a broker but also to the person who has been paying insurance.

Mr Berringer: Of course.

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Mr Klopp: One other, really quick: You mentioned about the graduated licences and that whole issue. I come from rural Ontario. It's Bill 39 you referred to, and that part of government is working towards these goals. Do you have any suggestions? My argument is that Toronto has got lots of people. People can get on a bus or whatever, but myself in rural Ontario, or even here in the north—do you have any suggestions for help with graduated licences or whatever?

Mr Berringer: I live, obviously, in rural Ontario as well. In our community, it could potentially pose some problems but I think you can work around that by making exceptions for a rural area. For example, if I was eight miles from school and the school buses weren't on schedule and so on and so forth, if one of my kids could drive my car and go to school and have to stay late for a basketball game, I'm sure provisions could be made for that. I think the whole concept of graduated licensing, though, is that when you turn a 16-year-old loose on Highway 401 at 4 o'clock in the afternoon, it's awesome. It's awesome for just about everybody in this room. You've got to consider that.

But certainly there are ways I think you could work this, depending on the region and the area you live in. Most 16-year-old children probably shouldn't be out after midnight anyway; they should be home.

The Chair: Mr Phillips.

Mr Peter Kormos (Welland-Thorold): A point of order, Chair.

The Chair: Yes, Mr Kormos.

Mr Kormos: There is one minute left in the government time slot and I expected to be able to address—

The Chair: Are you saying that the Chair can't tell time?

Mr Kormos: Yes.

The Chair: Mr Phillips.

Mr Kormos: Among other things.

The Chair: Mr Phillips.

Mr Phillips: The thing that we are really questioning is the cost-benefit analysis of this bill. In many respects, it'll be people like yourself who will be the first to face it when you send your bill out and then the phone call comes back, saying, "What in the world happened?" I think, based on all analyses, government analysis as well as other industry analysis, there are a whole bunch of people who will be facing increases in excess of 20%.

My question to you is this: Seniors, under this bill, look like they'll face very dramatic increases, well in excess of 20%, and many of them live on fixed incomes. When that bill goes out and someone phones you back and says, "My premium has gone up and it looks to me like it will be going up well in excess of 20%, well over \$150," how will you respond to them when they say, "Why did this bill go up \$150; I had no accidents; nothing happened to me; it just came to me out of the blue"? What will your explanation be and what should we, in the elected positions, who have passed this bill, expect from seniors?

Mr Berringer: I suppose I'd have to be honest and straightforward and say: "This is new government-driven legislation that's put your insurance premium where it is. We have no other choice."

Mr Phillips: I appreciate that. Believe me, I went through this several years ago when the previous bill was being contemplated, and the elimination of age. I don't think I had a more vocal group than the seniors, who really resented the thought of paying substantially increased premiums through no fault of their own. You're suggesting to us that it will rebound very quickly to the elected people. You'll say, "Listen, it was because of this bill that your rates went up well in excess of 20%."

Mr Berringer: I would think so.

Mr Mancini: First of all, I'd like to thank the witness for his brief. It was well done and the answers have been straightforward. Are you aware of the Coopers and Lybrand report that has been made public over the last couple of weeks that has estimated the premium increase, the rate cost increase for Ontario consumers, and are you aware, sir, that in Thunder Bay in the annual increase per household, insurance rates are going to go up \$170? Are you aware of that report?

Mr Berringer: I haven't read the report cover to cover.

Mr Mancini: I have a copy of the report here and I'd be most pleased to make it available to you. Do you think the people in Thunder Bay region are in the financial position to pay \$170 more per household for their insurance benefits, while at the same time losing the right to sue for economic loss? Do you think that's a fair exchange?

Mr Berringer: No, I don't, because I think the present system is serving them well.

Mr Mancini: Are you as disappointed as I am that the government is moving so slowly with the road safety program?

Mr Berringer: Yes.

Mr Mancini: Do you believe that a solid road safety program could in fact not only save lives and save people from being injured, but could put a cap on the rate increases of people's premiums?

Mr Berringer: Yes, I do.

Mr Mancini: Do you believe the government would be better spending its time working on road safety than trying to save face over its flip-flop on government-owned automobile insurance, and move ahead with road safety instead of with Bill 164?

Mr Berringer: I think continuing education is the key. This is what is starting to work for us now. It's called risk management.

Mr Mancini: Mr Phillips has another question.

Mr Phillips: I was curious about your comment about the reaction you're getting from people you deal with in terms of the rates they're currently paying on their insurance, and indicating, from your brief, that perhaps they're feeling a little less angry about the rates than they might have been three or four years ago. Has that been your experience?

Mr Berringer: There's no question. The great majority of our insureds are quite happy. When prices have been soaring around them, they've seen stability in their renewals, assuming they kept the same automobile and didn't have an accident or a conviction. All things being equal, they're very happy.

Mr Phillips: That has been my experience in my constituency. What, in your judgement, then, would lead a government, in one of the few areas where people are not complaining vigorously, to want to stir up an area that seems to have calmed down slightly when there are so many other areas that already have been stirred up?

Mr Berringer: I have no idea.

Mr Kormos: Panic? Hysteria?

Mr Berringer: I don't know.

Mr Phillips: Mr Kormos has given us two choices: panic or hysteria. I am curious about that because I think right across the province, people's incomes are going up very little, if at all. Average incomes are going up less than inflation just because of the number of people unemployed, and yet we would look at taking something as fundamental—it's almost that if you want to be in the economy in Ontario, you've got to have auto insurance. Why a government would want to take out of the pockets of the taxpayers—their own estimates, by the way, indicate at least a \$200-million increase.

Mr Owens: Not true.

Mr Phillips: Well, it is true. It's 5% of the premiums. The parliamentary assistant continues to interrupt, and with information that's incorrect. I'm trying to deal with, trying to get the benefit of—

The Chair: I'm sorry, Mr Phillips; your time's running out. Get to the question and try not to listen to anyone else. You've got the floor.

Mr Phillips: The government itself says that the increase will go up 5%. Five per cent on premiums is \$200 million, as you know and any sensible person in the province knows. Why would we want to take \$200 million out of the hands of taxpaying people at a time when the economy needs as much disposable income as possible in their hands?

Mr Berringer: That's a very good observation. That other one that to me is even more enlightening is that the OIC has said it will have to hire another 100 people and spend \$5 million to sort that part of it out.

The Chair: I'm sorry, but we've run out of time. I'd like to thank you for coming before this committee.

ZURICH CANADA

The Chair: The next presentation is from Zurich Canada.

Mr Harnick: Zurich. It's a place in Switzerland.

The Chair: My wife being German, she pronounces things a little different.

I'd like to welcome you before the committee. We have half an hour, and for the time left over, I guess the three caucuses can argue over it and give the Chair direction on how many minutes each they have. You may begin.

Mr Harry Saunders: Thank you, Mr Chairman and members of the panel. My name is Harry Saunders. I'm the president of Zurich Canada. I'd like to introduce my two colleagues who will be assisting me in my presentation this morning: Dante Alejandria, vice-president, claims administration; and Paul Minnoch, vice-president, personal automobile underwriting.

We appreciate the opportunity to participate in these hearings on Bill 164. You may be pleased to learn that we can be brief this morning because you gentlemen and ladies heard the presentation of the Insurance Bureau of Canada last week, and in large measure we support the position it put forward. In fact, we made a strong contribution to its development over the last few months.

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We are not here to present an alternative plan—we could do so if that were appropriate—but rather to emphasize the significance of five areas of Bill 164 in the hope that you will consider them in your final decisions. They are: the cost of the proposed new system; the dangers inherent in the proposed changes to access to tort for non-economic loss; instability that will be created by uncontrolled costs for rehabilitation services; to encourage the establishment of a uniform classification system which the consumer could better understand; and, finally, to urge a joint commitment to action on road safety reforms.

Surely at the root of everyone's concern is how to provide Ontario motorists with the best value for their money in automobile insurance coverage. We at Zurich are willing and able to provide insurance under any number of forms or combination of forms: pure tort, on the one hand, pure no-fault on the other, or various combinations in between.

At the same time, we must be straightforward in reminding all concerned—motorists, politicians, brokers, insurers, lawyers, care providers and taxpayers and residents of Ontario at large—that for every benefit there is a cost to be borne. Our experience leads us to believe that the best value for the consumer can be achieved through a combination of tort rights, however modified, and no-fault benefits, however generous, which indeed is the basis of both OMPP and Bill 164, although those two approaches differ significantly in the implementation of the principle.

Turning to the cost of the new legislation, why are we concerned about the cost of the new legislative proposals? Ample evidence has already been presented that shows that the increases under Bill 164 suggested by the Mercer research, the government's actuaries, are inaccurate and lower than what could reasonably be expected. They're based on irrelevant and non-current information and

indeed were targeted to go into effect on July 1, 1992, so already they are seven months out of date.

Furthermore, the fact that the industry results since the introduction of OMPP have been profitable have led some to believe that automobile insurance is overpriced and that increases can be absorbed. We would like to argue that, in effect, this is not the case. Current rates have become inadequate for the existing system and will be more dramatically affected by the proposed legislation if certain issues are not addressed.

Part of the reason for this is that any premium we charge today must be adequate to cover claims in the future. A change in rate does not generate overnight an immediate increase in revenue. It takes two full years for a change in rate to be fully reflected in revenues. This time lapse can distort one's view of results today and makes addressing future premium levels an issue of concern.

I'd now like to refer you to Mr Alejandria, who will speak to weaknesses in the proposed changes to tort and, secondly, rehabilitation and long-term care costs.

Mr Dante Alejandria: One of our greatest concerns is the uncertainty the new legislation will create with regard to awards for pain and suffering. Right now, there are clear legal precedents which provide indexed limitations on the amounts of awards for non-economic loss. The limits were originally established by the Supreme Court of Canada at \$100,000 and have grown to a present-day value of about \$240,000. It is vital to note that the court's decisions were based on the assumption that all economic loss has been satisfied.

Since Bill 164 does not necessarily provide full protection for economic loss, the basis for a limitation to pain and suffering claims will be seriously weakened. This uncertainty makes it extremely difficult for insurers to set fair and adequate rates with a reasonable degree of certainty, and until these assumptions are tested in the courts, consumers will also feel a great deal of uncertainty regarding their level of protection.

An additional area of serious concern is the proposed treatment of the deductible which would be indexed to the consumer price index. It can be demonstrated that the consumer price index grows at a rate far below the inflationary costs of bodily injury settlements.

We believe that both a stronger definition of the limitations on non-economic loss and a more realistic approach to indexing are among the adjustments required to Bill 164.

On the subject of rehabilitation costs, we know that we speak for the industry when we say we are encouraged by the creation of a task force to examine rehabilitation and long-term care benefits required for people injured in automobile accidents. An effective rehabilitation program as an essential part of claims service to our clients has been recognized by Zurich for many years and continues to be an area in which we take great pride.

We are here today to say that we believe the mere removal of limits for these coverages in no way guarantees the best possible benefit to an accident victim. It certainly does not offer the most cost-effective auto insurance system to the people of Ontario.

Unlimited and uncontrolled coverage in this area will create costing uncertainty that would be of acute immediate concern for insurers and reinsurers alike. In the longer term, unlimited and uncontrolled costs would compound the uncertainty for funding of future losses, and the lack of limits on claims would form an ever-increasing component in rate calculations.

The cost of rehabilitation needs further attention to ensure proper care for victims and affordable impact on premiums.

Mr Paul Minnoch will address our two remaining concerns, namely, in the areas of uniform classification system and road safety.

Mr Paul Minnoch: With regard to the uniform classification system, I'd like to point out that on January 1 of this year, we moved into a take-all-comers environment that allows all but clearly defined bad drivers to obtain automobile insurance from the company of their choice. This is a good start, but we believe the consumer deserves more: a uniform classification system he or she can understand.

At Zurich Canada, we feel very strongly that consumers must be able to understand easily how they have been rated and that all insurance companies should define the customer in the same way. Only then can buyers of insurance, on their own or with the help of a broker, shop with confidence for the best insurance value for their money.

The definition that would come from a uniform classification plan could exclude factors of age, sex and marital status, but a uniform classification system does not mean that age, sex and marital status must be excluded. These are two different issues. The decisive factor in the cost of insurance must be the driving record of the operators of the vehicle.

A uniform classification plan was presented to the government in October 1991 by the Insurance Bureau of Canada along with the Association of Canadian Insurers and the Ontario Mutual Insurance Association. For the benefit of the motorists of this province, we would like to see some dialogue on this issue as soon as possible.

Before we leave the subject of a uniform classification system, we must make one last observation. While we maintain that a uniform class plan is beneficial to the consumer, we must also state that these benefits can only be realized if insurers are allowed to establish their own mathematical algorithms and differentials to establish rates. Only in this way will insurance companies be forced to compete for the consumer's business on value and service. When this happens, the consumer can get the best deal.

On the topic of road safety, we would like to stress that this is one we are sure there is general agreement about in the room, yet we feel obliged to mention it at every opportunity because of its importance. It is something that will not only save money but will also save lives, especially the lives of our young people, and remove suffering on the part of their friends and families. We are talking about road safety measures.

In the government's policy document *The Road Ahead: Ontario's Strategy for Insurance Reform*, a great emphasis was placed on road safety. This component remains an integral part of responsible and affordable reform through the reduction of accidents.

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We can say with confidence that as a company, Zurich Canada intends to stay at the forefront in road safety education. Last year, our single largest advertising effort, in partnership with Health and Welfare Canada and the Canadian Association of Chiefs of Police, was on a drinking and driving campaign which featured Wayne Gretzky and was aimed at young people. We'll be doing even more this year in areas of road safety education.

At this point, I would like to offer you two examples which came to my desk on Thursday and Friday of last week and will highlight the next portion. These are two claims underwriting summaries that came to me. The first was an accident that occurred on November 10, 1992. This accident involved an 18-year-old driver, newly licensed. He had driver training. It occurred at 11 pm. He and five friends were on their way home from a hockey rink. They were travelling at excessive speed, lost control on a curve, and one of the passengers, one of the friends, had a spinal cord injury and he will be confined to a wheelchair for the rest of his life.

The second case involved a 19-year-old daughter of one of our insureds, who also had driver training, licensed only 16 months. She and a friend were travelling down a country road at 90 kilometres per hour. They came up to a stop sign, put on the brakes, slid on loose gravel and the vehicle rolled. The friend died in the accident. That case occurred on September 30, 1992.

This brings us to the topic of graduated licensing, which the insurance industry has been advocating for some time. The government stated in its policy document that young or new drivers are significantly overrepresented in all traffic accidents. For the sake of these people and all other people on our roads, we encourage—perhaps I could say implore—the government to continue the approach that does not consider Bill 164 in isolation but within the whole environment of automobile usage. Graduated licensing can be an important part of what the government wants to achieve in responsible reform.

Graduated licensing would have an effect on reducing excessive loss costs produced by one recognizable group. Graduated licensing protects not only the value of the cost of insurance but, more importantly, the value of life, especially the lives of our young people.

Mr Saunders: That concludes our presentation, Mr Chairman. We will be happy to accept questions.

The Chair: We'll start off with Mr Winninger.

Mr Winninger: I certainly appreciate your well-balanced presentation. I'd like to direct my question to Mr Saunders. I know you've had extensive experience in the insurance industry, and in your brief you mentioned the fact that Zurich Insurance is used to providing insurance in a number of different forms. I'd like to deal with the issue of coverage for excess economic loss, which has come up earlier in these proceedings as well.

As you know, Mr Saunders, economic loss can take many forms. It can involve loss of future earnings, it can involve the cost of future rehabilitation and long-term care, to name a few examples. Even though our Bill 164 will

actually cover 97% of full-time earners compared to 73% under the Ontario motorist protection plan, we still know there are some areas of economic loss that will not be fully compensated. There may be people for whom \$1,000 a week does not provide adequate compensation for lost earnings. There may be people—

Mr Tilson: It depends on how you look at it. No matter how you look at it—

Mr Winninger: Mr Chair, it's difficult to put an important question and also deal with the wailing of the banshees in the opposition.

Just getting back to the question, there may be people who may suffer loss of competitive advantage or a loss of earning capacity; there may be people who suffer significant capital loss due to the loss of their businesses. So a proposal has been put forward, which is certainly not precluded under our legislation, for those for whom, under section 63, an agreement to pre-estimate lost earnings may not be enough. A proposal was put forward that the insurance industry could offer excess economic loss coverage. I wonder if your company has put any thought to the costing of such a proposal, as well as any practical difficulties that such a proposal may be facing.

Mr Saunders: Such coverage could be made available. I'm inclined to ask Paul Minnoch to assist me in answering the question, because he's more directly involved in product development and costing. Certainly, I see no reason why some forms of excess economic losses couldn't be layered on top of the proposed Bill 164, but it depends on what shape and form this will be presented and what the basis of arriving at settlement would be to hazard a guess as to costs. Paul, do you have anything to add to that?

Mr Minnoch: No, that does state it. We would have to see exactly what you required, what you had in mind, but as Mr Saunders mentioned, we could layer that on top of the product.

Mr Winninger: I take it that Zurich also is involved in insurance in other provinces as well, in Canada?

Mr Saunders: It is.

Mr Winninger: Has it considered excess economic loss there?

Mr Saunders: Yes, covers are available in that sense in other provinces, yes.

Mr Winninger: Certainly we've heard all kinds of wild claims about how Bill 164 is going to dramatically escalate the cost of auto insurance premiums. I take it that your industry is prepared to work with government towards containing any increases to the consumers.

Mr Saunders: I think there are some flaws in the legislation that's presented which have to be addressed. We're very concerned about the two aspects of the tort provisions, which we've already talked about this morning. We're encouraged about the task force work. I think we can put some useful controls into rehabilitation and long-term care which will still deliver a very valuable product without having the costs escalate out of all proportion to benefits, and we'll continue to work. But as it

stands at the moment, I'm very concerned. We are looking at substantial increases in costs and therefore premiums.

Mr Winner: Today you expressed some concern about expanding the right to sue for non-economic loss. There are some members of the opposition who would like to lower the deductible for pain-and-suffering lawsuits even further. Certainly that would increase premiums.

Mr Saunders: As we said in our opening remarks, we're ready to provide any level of service or any combination of coverage that the politicians and the public feel is in their best interest, provided it is reasonable and provided we can reasonably cost it.

Mr Winner: Thank you.

Mr Saunders: There's no free lunch.

The Chair: Mr Johnson. One minute left.

Mr Johnson: That's not a lot of time. However, when one goes out to buy automobile insurance as a consumer, people often think that all insurance companies must be the same. There's a basic product you have to buy, and therefore it doesn't really matter where you go. But we know. We've heard the horror stories where people have been claimants and they've had to file a claim against an insurance company—

The Chair: Mr Johnson, get to the question.

Mr Johnson: Without a little bit of a preamble, it's very difficult. Anyway, I'll do this as quickly as I can. Insurance companies are not all the same, and some insurance companies—I won't mention any names because I don't want to be liable—but some insurance companies have reputations for not being known as—

The Chair: I'm sorry, Mr Johnson, you ran out of time. Mr Mancini.

Mr Tilson: Good preamble, though.

Mr Mancini: Mr Saunders, I'd like to thank you and your executives for making the presentation you have to this committee. I'd like to state for the record, and be very clear about it, that my bias is towards the consumer, the buying public. We're in the middle of a four-year recession, and even prior to the recession, before we had lost those 500,000 manufacturing jobs in Ontario, people whom I represented were, in fact, complaining loudly about the cost of their insurance.

Through the Ontario motorist protection plan, rates were in fact stabilized. Now we enter a whole new realm of instability for rates, and I'm particularly concerned about what this legislation is going to do to senior citizens.

Senior citizens have not fared well under the NDP government. They've had their drugs delisted from OHIP, they've had senior citizens' property tax—

The Chair: I'm sorry; would you wind up getting to the insurance issue?

Mr Mancini: How much time do I have, Mr Chairman?

The Chair: But keep on subject.

Mr Mancini: How much time do I have?

Mr Kormos: Stop trying to muzzle the opposition.

The Chair: I am not muzzling—

Mr Kormos: The Premier is trying hard enough to muzzle the government members, never mind the opposition members.

The Chair: Go ahead, Mr Mancini.

Mr Mancini: I'm building a case, with the Chairman's permission, to show the impact that this government has had on senior citizens. They've had their drugs delisted from OHIP, meaning they've had to pay more out of their pockets—

The Chair: Does this have anything to do with insurance?

1050

Mr Mancini: Yes. I'm building a case, if you would stop interrupting. Mr Chair, on a point of order: You have absolutely no authority under the standing rules to frame my question. You only have authority to ensure that I do not overuse my time. Please reread the standing orders and govern yourself accordingly.

Mr Kormos: They think they can control opposition members just like they control government members. That's the problem.

Mr Mancini: It hurts the government when you point out what has been happening to senior citizens in this province. That's why we get these uncalled-for interjections from the Chair. Senior citizens have had their drugs delisted from OHIP, meaning they have to reach into their pocketbooks and pay for drugs they didn't have to pay for before. They've had their property tax grants shrunk considerably, meaning tens of thousands of senior citizens have to pay more in property taxes today than they did two and three years ago.

This, I believe, will be the last nail in the coffin for senior citizens. Documentation we have received, Mr Saunders, indicates to us that with the rate increases in Bill 164, along with the uniform classification system that the NDP government is talking about, senior citizens in the Toronto area will face at least a 24% increase in their automobile insurance; in the northern Ontario region, 21%; in Windsor, 23%.

Mr Owens: How do you know that?

Mr Mancini: Will you control the parliamentary secretary while I have the floor?

The Chair: One thing we're going to do in the next place we go, because I can hear everybody—

Mr Mancini: Mr Chairman, you and I are not going to get along in this committee if you do not follow the standing orders. The standing orders do not give you authority to frame my question or to muzzle me in how I'm going to present my case to the witnesses and to the general public who are here today. You have authority to ensure that I do not abuse my time.

The Chair: I have the authority to keep you on track.

Mr Mancini: You do not have authority to frame my question. I suggest you speak to the clerk. We are not going to get along if you continue in the abusive manner that you've demonstrated this morning. There's going to be great difficulty in this committee, let me tell you.

The Chair: Carry on.

Mr Kormos: See, now you've got him mad at you too.

Mr Winninger: Thank you, Charlie McCarthy.

Mr Mancini: Mr Winninger, if I were you I'd be quite worried about what's happening to seniors in your riding. In the Ottawa area, seniors may face increases of greater than 22%. Somebody has to be concerned about the senior citizen population. These people are not concerned about them.

I want to ask you, Mr Saunders, because you are one of the longest-serving executives in the insurance industry in Canada today, do you think that senior citizens can afford increases of anywhere from 20% to 30% in their premium rates?

Mr Saunders: Mr Mancini, we haven't taken our costing down to the individual level like that. I'm very concerned about the overall cost of Bill 164. There's no question that those costs have to be addressed and some reforms have to be put into Bill 164 before it should go into place. I think Mr Minnoch might want to add something along those lines.

Mr Minnoch: Very much so. If the program continues as it is presented at the moment, those costs will in fact impact seniors the way you've described. In the uniform classification plan that the industry submitted to the government in October 1991, which I mentioned in our brief, we did in fact pay special attention to seniors as a group, and that did form part of our submission to the government. In fact, we presented that to the Consumers' Association of Canada informally at the offices of the insurance commission, and it was very well received by the senior group represented by Helen Anderson of the Consumers' Association. So the seniors have been considered by the industry.

The Chair: Mr Tilson.

Mr Tilson: Mr Harnick has a question.

Mr Harnick: My question is to Mr Saunders. Last week we heard from the deputy minister or the legal adviser, a fellow by the name of Mr Endicott, who, I understand, was pretty much responsible for writing Bill 164. He told us that a young student injured in a car accident who would never be able to work again would receive the equivalent of \$391 a week for the rest of his life, which pretty much puts him at the poverty line or a little below the poverty line. In addition, he would be able to keep up to the poverty line because that generous \$391 for life would be indexed.

I know that you've been in this business for a long time and that your company's been looking after injured people for a long time. In cases where an innocent young person has the rest of his working life snuffed out from him, would you agree with me that \$391 a week, indexed to pay that person's lost income for his lifetime, is miserly and improper?

Mr Saunders: I'd have to agree with you, Mr Harnick. I think I would go further and state a personal opinion here. I truly, firmly believe that any effort to address all economic loss through a pure no-fault system is faulty and I think that's the fatal flaw of Bill 164. We weren't

here to present alternatives. We are here to try and make Bill 164 work, but I'm extremely concerned about that aspect of the legislation.

Mr Harnick: If I can quote you then, the fatal flaw of Bill 164 is trying to pay all economic loss under a no-fault system?

Mr Saunders: Absolutely. That is my personal philosophy, 100%.

Mr Harnick: I'll be right with you.

Mr Saunders: Do you want me to repeat it?

Mr Harnick: No, I think I've got it.

Let me take this one step further, then. If you agree that you can't pay all economic loss under a no-fault system, the way the bill is presently framed, it says you can't make any claim for economic loss. In other words, it's going to be against the law. The only way you could offer coverage is if the bill was amended to permit you to offer economic loss coverage—

Mr Saunders: Excess.

Mr Harnick: —excess coverage to individuals. Is that correct?

Mr Saunders: On an insured-option basis, you mean?

Mr Harnick: Yes.

Mr Saunders: Yes.

Mr Harnick: Much the way we do SEF 44.

Mr Saunders: Yes. I'm not an expert in legislative drafting. I doubt the technicality is that difficult or complex.

Mr Harnick: Yes. You've indicated that you thought that would be an economically viable product for the insurance industry to sell. What I want to ask you is this, and it's very important—at least to me. The government is trying, under Bill 164, to put everybody under one roof and is saying, "What's reasonable for one should be reasonable for all."

One of the beauties of auto insurance, over the years, has been that auto insurance has been able to pay people for their particular circumstances. In other words, everyone's different and everyone can claim to what their actual or potential loss might be. What I envision, if the government responds to what it's been hearing from witness after witness for the last week, is making a product available so that individuals can protect their actual losses, so that they're not lumped in under one roof. If I pay my extra premium, as I do for my underinsured coverage, I want to be able to claim for what my actual loss might be or what my children's economic loss might be if, God forbid, they're injured in an accident. Can that kind of product be made available?

Mr Saunders: That was a rather lengthy question, Mr Harnick. I suppose the simple answer is yes, of course, but you raised a lot of questions there.

For example, you refer to the economic viability of excess economic loss. I don't think I said that. I said we would be willing to offer the product. I have some concerns about how widely it would be purchased and therefore how long it would stand the test of time in the marketplace,

but in general concept what you described should be a practical proposition, sure.

Mr Harnick: Thanks.

The Chair: I'm sorry. The time has run out. I'd like to thank you, gentlemen, for coming before this committee.

Mr Saunders: What are we doing at lunchtime?

The Chair: Talking about the game last night, I guess.

Mr Harnick: I thought you were buying.

Mr Saunders: After last night, Brad had better buy.

The Chair: Some subjects we can talk about here—football games and I think no one would object. Other issues, some members object to.

Mr Kormos: The government's in bed with the industry. They might as well eat with them too.

1100

RUTTAN BOLDUC ADDERLEY
GENERAL INSURANCE BROKERS

The Chair: The next group to come forward is Ruttan Bolduc Adderley General Insurance Brokers. I'd like to welcome you to the standing committee on finance and economic affairs. We have a half-hour; we have until 11:30, and in that half an hour, if you could leave some time for questions from the committee members, and you may begin.

Ms Jo-Ann Menard: Good morning, Mr Chairman and members of the committee. My name is Jo-Ann Menard. I have been an insurance broker in the city of Thunder Bay for the past 20 years. I have served on the boards of various industry-related associations and am presently the vice-president of the Insurance Brokers Association of Thunder Bay. My presentation today is on behalf of my firm and the clients I represent, those consumers of the auto insurance product.

As you are aware, the role of an insurance broker is to act on behalf of his or her clients, providing a product that meets their needs. The consumer is basically interested in two things: keeping insurance premiums down or at least stabilized and getting the benefits which they are entitled to have, which they have paid for, with a minimum of fuss or hassle. In my opinion, Bill 164 does not address these needs of the consumer, as it is costly, it is complex, and, above all, it's a change that the consumer on the whole has not requested.

Prior to the implementation of the Ontario motorist protection plan, either auto rates were too low or costs were too high. With double-digit increases being applied to the product in the early to mid-1980s, the consumers were not happy campers. They let the insurance industry and the government know that things were getting out of control; thus the implementation of OMPP.

OMPP has addressed those needs of the consumer. In general, consumer satisfaction with the product is high. OMPP is working. Premiums have stabilized and in some cases have been reduced. Claims have been adjusted quickly, fairly and without the hassles found in the pre-OMPP product. It is a pleasure to deal with clients who are satisfied with the product. To have a client smile when he's

handing you payment for his auto renewal is a definite indication of satisfaction.

There's no solution to providing an insurance product that will be 100% satisfaction guaranteed by all consumers of that product. There will always be some deficiencies. The insurance industry has recognized these deficiencies, and under the OMPP there are provisions to modify and enhance the benefits. Why not let the insurance industry do its job? As front-line distributors of the product, the brokers are the first ones to hear of any dissatisfaction with that product. We voice our concerns not only to the insurance company but also to the Ontario Insurance Commission, and we have no reason to believe that we are not being listened to.

Bill 164 carries a large degree of uncertainty, the potential for higher costs and the need for increased premiums down the road.

When improvements are made to benefits, the average cost per claim rises. Bill 164 raises the possibility of increased adjustment costs because a higher percentage of accidents involving bodily injury will have to be thoroughly investigated, as there will now be a liability exposure. Insurers will have to look at all injured third-party claimants and may have to set reserves because a year from now they could be sued. Bill 164 seems to be taking a backward step in this regard.

The right to sue for pain and suffering beyond a \$15,000 deductible will unnecessarily increase access to an already overburdened court system, thereby once again increasing the costs. The proposed deductible will have no impact. Time and time again, experience has shown that monetary thresholds merely raise the minimum claim size. The threshold becomes a target rather than a deterrent. I must once again emphasize that the consumer will not accept more than a very modest premium adjustment.

The current legislation fails to address the issue of road safety, which must be a priority. The document *The Road Ahead* placed significant emphasis on the need for safer roads as a key to containing both monetary and social costs. It appears that the road safety agency has been delayed. Why? The frequency and severity of accidents is a major concern not only for the insurance industry but also to the consumer. We live in a very fast paced society, which in turn is being reflected in our driving habits.

The implementation of the road safety program will lower the toll of accidents, injuries and deaths on our roads, thereby reducing the cost of claims and passing benefits on to the consumer. The campaign in Ontario for graduated licensing drew overwhelming public support, but to date there has been no action on this matter. Progress has been made and must continue to be a priority to promote seatbelt use and to reduce drinking and driving. The high-profile campaigns and strict law enforcement have had a definite impact.

I believe the government should also be focusing on an educational program for those who have been licensed over a certain period of time, say 25 years. At present, once a person is licensed to drive in this province, there is no requirement for retesting until the age of 80. There's a large gap here. People pick up bad driving habits that they

are not fully aware of and these bad habits play a major role in the frequency of accidents. The road safety agency is a must.

In the first two weeks of January 1993 in Thunder Bay there were an average of 17 accidents per day. This is an alarming amount, considering the population of Thunder Bay is only 113,000. Something has to be done.

Bill 164 does not provide for any changes to the direct compensation property damage portion of the liability section, nor to the physical damage coverage. Ironically, the majority of the consumer complaints lie within these two areas and not in the no-fault accident benefits section. Areas of consumer concerns are with the way vehicles are being valued in the event of a write-off, the lack of time given for return of a rental vehicle when a write-off has been allowed and other minor but significant concerns. Another major problem that is of concern is the double pricing of body shop repairs: one price if you have collision coverage and a lower price if you don't. This problem must be addressed.

Bill 164 provides for government regulations of risk classification. In 1987 the Ontario Automobile Insurance Board examined changes to the risk classification and after much discussion and in-depth study the proposal was abandoned as not being economically feasible. As a result of a uniform rating system, women in all age categories, who have traditionally enjoyed better driving records, as well as mature drivers, will be required to share the cost of claims by younger and higher-risk drivers, specifically males under the age of 25. A change of this nature would also limit competition among the insurers. The present system allows a series of specialized discounts which benefits a variety of consumers, and a number of these discounts are especially beneficial to Ontario seniors. Seniors are on fixed incomes. They cannot afford the increased cost of such a change.

By removing the caps and time limits on supplementary medical rehabilitation and care benefits, the system could be opened up to abuse and add considerably to the costs. It is imperative that proper and accessible facilities be provided to assist injured people, wherever possible, to return to work and lead productive lives.

I'd like to share with you information received from a copy of an article out of the Detroit Free Press which states that Michigan plans to cut auto rates by 16% through the elimination of mandatory unlimited medical coverage and instead requiring a minimum of \$1-million coverage with the option to buy up to \$5 million. A copy of this article is attached with my presentation. This article undoubtedly gives some indication of the cost involved in giving an unlimited amount for medical coverages. I believe the government should take the same stand in enhancing medical benefits as set out in the Michigan legislation.

Addressing the changes to increasing the income replacement benefits, these benefits in their present form under OMPP seem to be sufficient for the average wage earner in the province of Ontario. Those whose earnings are in excess of \$39,000 annually more than likely can afford to purchase the buy-up option which is presently in place under OMPP. Consumers of average earning capacity

should not have to pay higher premiums to subsidize those above-average income earners.

In summary, the present system can be modified and improved, gaps filled, with only a modest premium adjustment. We need to deal with the existing problems and feel that government is here to look after society and not here to put on added controls.

For most of the last 30 years, especially in the past 6, there has been a political cloud hanging over the future of auto insurance in Ontario. The consumer is fed up. Let's hope reason finally prevails, that the marketplace is allowed to function and that auto insurance settles down to a long period of stability.

I thank the committee for allowing me this time to voice my concerns.

1110

The Acting Chair (Ms Christel Haeck): Thank you. We have Mr Mancini for the Liberal Party, and in fact you've got just around six minutes.

Mr Mancini: I see from your attachment you have a news article from the Detroit Free Press, which I was looking at the other day, where in the state of Michigan a bill will be introduced, cosponsored by both Republicans and Democrats, which plans to cut the insurance rates for automobile drivers by 16%. We're doing exactly the opposite in Ontario, and I'm wondering why.

I'm wondering if we have consumers and families living in Ontario who are that much more wealthy than they are in Michigan or whether or not this legislation is ideologically driven. Whether or not we have car rate insurance increases or not seems to be not the primary concern but only a secondary or tertiary concern. I was wondering if you'd had a chance to look at that proposal that's being introduced in Michigan, cosponsored by both Democrats and Republicans, and what you think of it.

Ms Menard: I haven't had a chance to look at the proposal. This is the only piece of information I have received at this point in time.

Mr Mancini: Basically in your brief you've made four very good points. You've talked about road safety and the impact that road safety legislation would have on drivers and their insurance rates, something that the government has not done yet. You've talked about the rate increases and mentioned in your brief that people you serve cannot afford any more rate increases. You've talked about the difficulty of administration. I brought with me the new draft regulations, all 68 pages of unintelligible regulations that even senior officials in the insurance industry and top-notch lawyers have told this committee they cannot understand. Your fourth point was the removal of the right to sue for economic loss and how devastating that will be to many families and individuals.

I wanted to ask you, is there anything in the legislation that you think is worth the anywhere from 4.5% rate increase to the 23% rate increase, that all of the actuaries have said we can expect anywhere in that range? Is there anything in Bill 164 that your customers have come in to talk to you about that is worth that increase?

Ms Menard: No, there isn't.

Mr Mancini: Thank you.

Mr Phillips: I really congratulate you on a thoughtful and consumer-oriented brief. The second last paragraph in your brief, I thought, was instructive for us, essentially saying that auto insurance has been in turmoil for years, and just as it's settling down, the people's government has decided to stir it back up again. My experience will be that they're sort of on a mission of Operation Alienation. This is another group to alienate, and that, unfortunately, is all of the public.

You're in the front line. There's bound to be a normal increase in auto rates in any event, just as inflation takes hold, and I think there's agreement that the minimum increase is 5% and up to 20%, but even if we say it's just a 10% increase in premiums, how do people in your business respond to a 10% premium increase? What will be your response when they phone you back and ask you why their insurance has gone up \$150?

Ms Menard: Consumers aren't happy with increases. They don't want the increases. They will take minimal amounts of increases on a regular basis. They can deal with that. But they will not accept a double-digit increase in an auto product where they cannot really see where the benefit is of that product. They're tired of hearing about the auto insurance industry, and their main question is, why is the government involved in this?

Mr Phillips: Thank you.

The Chair: Mr Eddy.

Mr Phillips: I have another question.

The Chair: Okay, Mr Phillips.

Mr Phillips: You comment on the risk classification, and my memory goes back to that 1987 period, what do you think the response of seniors will be when they find their rates are going up 25% or thereabouts?

Ms Menard: The response is going to be anger, definite anger on behalf of the seniors. They're on fixed incomes. The average person doesn't want to see a 25% increase, those who might be able to take it out of their pockets without hurting too much, but for the seniors in Ontario, there's no way. With the cutbacks and everything else they've had, a 25% increase in an auto insurance product? They will not be happy.

Mr Phillips: If, theoretically, you had the option of offering two packages, the existing package at the existing price or this package with a premium 20% higher, what do you think your sales would be on those two packages?

Ms Menard: I would most definitely be able to sell the OMPP package much more than Bill 164.

Mr Tilson: As critic for the Progressive Conservative party, I get a number of letters and telephone calls not only on this bill but also on OMPP. The concerns that come to me from the consumers you are speaking for, which I appreciate, deal not only with their remarks directed against Bill 164 but also against OMPP.

One of those criticisms is the whole process, that it's very difficult to deal with insurance companies. I don't know whether these allegations are true. I get letters, I get calls; some of them may be true and some of them may not

be. But insurance companies are in the business, of course, to challenge claims to make a living. At the same time, it's becoming quite clear to me, because of the bureaucracy that's going to be created by Bill 164, that this whole relationship between the consumer and the insurance company is going to become more strained.

I'll read you portions of a typical letter I've received from an individual. I'd like you to give your comments on what I say to them. They complain about OMPP in this letter, and now Bill 164 is going to be even worse. What am I going to tell these people? The letter says this:

"On November 14, 1992, my daughter was involved in a car accident. She's a VON and was on duty, going to see a patient. The police laid no charges and stated the cause of accident as weather conditions. My daughter was in St Michael's Hospital in Toronto for three weeks with head injuries and brain damage.

"The hospital people told my son-in-law to get a lawyer, that because of the insurance and workers' compensation involved, there would be many grey areas. He did. There are.

"The hospital wanted to have follow-up care come to the house to treat my daughter at home, to start at the time of her release from the hospital. This did not happen, because the insurance company would not give the hospital the assurance that its expenses would be covered. Instead, she was cared for by family, friends and VON.

"The insurance adjuster called my son-in-law at his workplace and told him that the insurance company would not accept his claim, as the accident was my daughter's fault. The agent continued to harass him to the point that his employer relieved him of his duties for the day, as he was in an unsafe state of mind to continue working. In my opinion, by not receiving the professional services supplied by St Michael's Hospital, the insurance company has slowed my daughter's recovery and is jeopardizing her health and long-term recovery.

"If the insurance companies would cooperate at the time of an accident, there would be no need to sue. But the way they are carrying on, yes, I believe we, the people, should have the right to sue. If both parties in an accident received proper compensation, no-fault would make sense. But when the person who caused the accident can say, 'Not my fault,' and walk away, I don't believe it's working."

I get a number of complaints orally and in writing about that. What am I to tell those people?

Ms Menard: There's no such thing as "not at fault" and walking away from the accident. OMPP has got a no-fault section in the accident benefits only. Any physical damage coverage and everything else are still based on fault.

Mr Tilson: These people are responding to the OMPP position.

Ms Menard: It's a misconception that unfortunately happened when OMPP was put into place. The "no-fault" scenario of OMPP misled the consumer. They were not aware that the no-fault benefits were only under the accident benefits section and not under the whole product of OMPP. That was really hard to try to address to the consumers.

1120

Mr Tilson: The difficulty I have, of course, is that now I have to tell these people: "You're going to have even fewer rights. You're not going to have the right to sue for loss of future income, economic loss. Your difficulties with the insurance companies may accelerate." And the poor insurance companies are going to have less money to work with, obviously. They're going to have to fight to make every dollar they can. It's a mess. What are we to tell these people?

Ms Menard: It will be a fighting battle; it will be.

Mr Tilson: Now we're finding out that the government's boasting about this wonderful task force, and now the subject of a workshop has come up to try to explain to us all how this whole thing is going to operate. I don't know how much input you personally or contacts you have in the insurance industry have had into this bill, but why do you feel the government's going at it this way now? Why now?

Ms Menard: I don't have an answer for that question. I really don't think the public has requested that OMPP be changed to this extent.

Mr Tilson: So it doesn't make sense to you, at this particular time, in this recession?

Ms Menard: No, it doesn't. In the recession it makes no sense whatsoever that this is coming up.

Mr Tilson: Particularly as costs are going to go up, difficulties are going to be accelerated.

Ms Menard: Definitely.

Mr Tilson: Does any of Bill 164 make sense to you?

Ms Menard: No.

Mr Tilson: I'm going to leave it at that, Mr Chairman.

The Chair: Fine; you had 30 seconds left. I'm going to go to Mr Owens.

Mr Owens: I don't think anyone in this room, whether sitting at these tables or out in the greater audience, would say they don't care about senior citizens, so my blunt question to you is, why should auto insurance premiums be based on age rather than driving record, where it really doesn't matter whether the person is 25 or over 65? If he has a bad record at 65, why would you be interested in subsidizing that bad driver instead of looking at his record directly?

Ms Menard: Those drivers at the age of 65 who have a bad driving record are being penalized for it.

Mr Owens: In terms of the uniform classification system then, we are looking clearly at doing that throughout the whole system, not looking at drivers and saying, "Because you're a married female over the age of 25, that automatically qualifies you as a better driver." Why do you think we should look at variables like that, rather than simply looking directly at a driving record?

Ms Menard: I think the stats show that those under the age of 25—I don't have any figures with me, but the percentages are high. The youthfulness of the driver, the inexperience of the driver: Those are the ones who are creating the majority of the havoc on our roads.

Mr Owens: So in terms of the uniform classification system, those bad drivers will get dinged and those who are good drivers won't get dinged. Is that not right?

Ms Menard: Yes, they would.

Mr Owens: Thank you. Mr Winninger.

The Chair: I'm the Chair. Mr Winninger.

Mr Winninger: I certainly appreciated your presentation, particularly a statement you made on page 4, that consumers who are of average earning capacity should not have to pay higher premiums to subsidize those above-average income earners. Many critics on the opposition side have suggested that the government was remiss in not allowing accident victims to sue for their full economic loss, which would of course mean that consumers of average earning capacity would be paying higher premiums for those who are well beyond average earning capacity.

When I suggested that the proper way to approach that is through providing contracts of insurance for excess economic loss, Mr Harnick said Bill 164 does not allow for contracts insuring excess economic loss. I think Mr Harnick, who is himself a lawyer, should read subsection 224(6) of the Insurance Act, which says quite clearly, "An insurer, with the approval of the commissioner, may offer optional benefits in excess of the benefits that must be provided under the no-fault benefits schedule." That is also restated in section 253.

So my question to you would be, given that there are policies that can be made available to insure for excess economic loss, does it not tie in quite closely with your observation that people of only average earning capacity should not subsidize those who are above the average?

Ms Menard: Yes, it does. The excess is exactly that; it would be excess. It would be an option paid by the insured. If that insured wishes to pay for that excess coverage, that's his option, and that's the way it would be placed in the bill: as an option for excess economic loss.

Mr Klopp: You mentioned early in your brief, page 2 or 3, the business about the government pushing through the Ministry of Transportation things to do with reducing through education etc, and you're wondering why not. I've sat in the House and seen people spend all day reading lakes into the House. Sometimes one has to waste time doing that, and it's pretty hard for different ministries to push the process through, and that's an issue we have to look at. Here today we're dealing with the insurer, and the other side is to look at reducing through education. Do you have any thoughts or ideas, coming from a rural area, on how to do things, like graduated licences and stuff like that?

Ms Menard: I think there could always be provisions made in the graduated licensing program for different variables: different areas of the city, time schedules, time permits. It can be enhanced. The graduated licensing program will work. I'm positive it will work, and I think it's a necessity that we have it in place as soon as possible.

The Chair: I'd like to thank you for appearing before this committee today.

THUNDER BAY INSURANCE SERVICES LTD

The Chair: Everyone has the next presenter's brief in front of them. Would Thunder Bay Insurance Services Ltd come forward, please. I'd like to welcome you to the standing committee on finance and economic affairs. We have one half-hour, until 12 noon. In that period of time, could you leave some time at the end of your presentation for questions from the committee? You may begin. Please identify yourself for the purposes of Hansard.

Mr David Baxter: Good day, Mr Chairman and members of the committee. My name is David Baxter, president and general manager of Thunder Bay Insurance Services Ltd. Thank you for the opportunity to appear before you today.

I own and operate three offices with 21 staff, servicing approximately 7,000 client families in the Thunder Bay and Nipigon region of northwestern Ontario.

I myself have been in the insurance industry for over 14 years as a general insurance broker and deal with the public on a daily basis. I also serve as a director and executive officer of the Thunder Bay Insurance Brokers Association, an affiliate of the Insurance Brokers Association of Ontario, for the past 10 years.

Today I would like to address my concerns on Bill 164 on behalf of my clients, who have entrusted their confidence in my firm. When counselling our clients, we try to provide a level of service that educates them on the products they are purchasing and helps them understand the benefits and limitations of these products in simple terms. Once we have agreed on the coverages that are necessary for their protection, we begin the process of affordability versus protection and the education of the costing of these benefits. This process that we undertake as an insurance broker aids the consumer in simplifying the insurance purchase, which makes it less confusing and less frustrating for them.

I will attempt to describe the history, as seen through my office, of the insurance problems that led up to the creation of the Ontario motorist protection plan. I will also describe the benefits this plan has had for my clients and some of the problems that have arisen. Finally, I will express my opinion on what I see as the effects of Bill 164 on my clients.

First, I would like to reflect back on the early 1980s, when the tort system was in effect. Clients in the tort system were treated as adversaries by third-party adjusters or company personnel. Because the adjuster was working in the third-party environment, his job was to keep costs down, creating a feeling in the consumer that he was not being dealt with fairly. Lawyers were involved as the public grew in their antagonistic feeling to get back at the big insurance companies for not giving them their fair shake. As frustrations grew with the rising costs, the public was caught in an endless cycle that could be best described by the expression: "I deserve to get more in my claim. I've paid plenty of money for my insurance."

By the mid-1980s, the public became more aware of settlements being paid by insurance companies for large sums due to lost wages and pain and suffering. Soon more writs were being issued in the public's attempt to fight back in frustration at the claims process and in the hope to

benefit from the situation for a possible windfall. The system was being abused.

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I would see a copy of a lawsuit received by one of my clients at least three times per month, and I'd be consoling my clients on the vindictive legal terms used against them in these writs. What first started out as an attempt by the consumer to receive a fair settlement had gone full cycle and had driven the insurance costs up, creating more frustration with the system. Insurance had become a product no longer of protection but one of abuse.

In the late 1980s, in an attempt to address the public outcry, the previous government, under the Ontario Automobile Insurance Board, froze insurance premiums while attempting to analyse spiralling insurance costs. Factors that were addressed were the cost of the legal system involvement and the possibility of a new classification system. After numerous studies, the Ontario motorist protection plan was introduced in June 1990. It brought back the accountability of the insurance companies to the public by making the insurance companies a first party in their client's claim settlement, taking away the adversary condition of the previous system.

OMPP has addressed a fair compensation of wage loss, medical costs and rehabilitation for the injured client. Although it is not a perfect system, it has created consumer confidence by their understanding of the Ontario motorist protection plan product. It has also brought premium rate stabilization to the consumer. OMPP is a complex enough product, but it can be understood by consumers, allowing them to know their rights.

Since the introduction of OMPP it has taken our staff many hours to explain the different options available under the plan to our clients. Generally, our clients feel that OMPP gives them fair compensation in the event of an accident. The present accident benefit levels are accurate for the majority, with only 5% of our clients opting to purchase higher limits. Those who need the increased limits are those who are in a higher income bracket and can generally afford to purchase the optional limits.

Complaints under OMPP compared to the tort system have dropped drastically. The complaints seem to be centred on the cost of repairs rather than the levels of compensation for lost wages or medical rehabilitation. It would seem that the focus should be on physical damage and direct compensation for vehicle repairs rather than the re-establishment of a new accident benefits structure.

In the fall of 1991 the government had stated that it would not start a government-run auto system due to the cost involved; it would rather focus its attention on safer roads and educating the driving public, under Bill 39 and The Road Ahead. It appears these two initiatives have been shelved in order to satisfy some self-interest groups that make up a minority of the insurance public.

Should a question at this time be asked, "What has happened to the road safety board," or is this a job that private industry must carry forward? Also, there is much money spent in the promotion of graduated licensing, which should reduce the number of serious or fatal accidents, but again this has been stalled prior to implementation. I,

along with my clients, feel the money would be better spent on both of these projects rather than the cost of implementing Bill 164.

Upon reviewing the proposed changes to OMPP by Bill 164, the main focus addressed is on the improvements of accident benefits and the right to compensation for non-economic loss, pain and suffering. Other items addressed are the new classification system and the insurer withdrawal from the marketplace.

In assessing the benefits of the improved accident benefits for my clients and in discussion with some of these clients, it is an opinion that to increase income replacement beyond the average wage earner will only increase the base cost of the average wage earner and is not necessary at this time. In addressing the indexing of benefits, would it not be far simpler to review the level of benefits every three years rather than the complex formulas that are designed, which will undoubtedly not only confuse the insurance adjusters but the insurance public as well?

In these areas I feel it would be better to make minor adjustments rather than implement wholesale changes that would increase the cost of the product. Another cost factor in these changes is the increased cost of advising the public of their new rights, either by the Ontario Insurance Commission, independent brokers or through a legal system.

Under supplementary medical rehabilitation and attendant care: By taking away the cap of \$500,000, are we trying to solve a threshold problem or create another one? Also, by unlimiting the time for rehabilitation, does this not create an incentive that people will not want to be rehabilitated? Under the death benefits, by increasing from \$25,000 for a spouse to \$50,000 upwards to \$200,000, are we not interfering with the life insurance industry by creating an over-sense of security under an auto policy? In addressing funeral benefits, I believe the present gives a very cost-effective option for compensation and that an automatic increase is only forcing the consumer to absorb that cost.

Overall, I feel the present accident benefit structure may need minor adjustments and not the changes that are proposed by Bill 164, because of the potential cost to the consumer.

Now I'd like to address the proposal for the right to sue for non-pecuniary loss. I feel bringing back this section for a debatable issue such as pain and suffering would only bring back the windfall-type attitude of the mid-1980s. Would this not be better served on a charted injury system that would be far fairer to all victims throughout the province, rather than leaving it up to the courts in different jurisdictions and the availability of the best lawyer to get the best settlement?

Also, under this section with the \$15,000 and \$5,000 deductibles respectively that are stated for the reduction of damages, will these become a benchmark in order to start the point of negotiations? Also, would the legal profession still charge a total settlement, or the settlement less the deductible? Would the consumer benefit or be at a loss?

In regard to the new classification system, at times I can fully agree that new drivers pay far above affordability in comparison with the chance to prove themselves through their driving record. But as many accident statistics still

prove, after reviewing statistics as late as December 1992 for our city, new and youthful drivers still cause the majority of accidents.

Rather than having cabinet devise a new classification system, would it not be better that the ministry and the industry provide rating changes that address "innocent until proven guilty"? It is also feared that devising a new classification system may increase the cost for the average driver. This may increase the possibility of more uninsured drivers due to the increased costs, a scenario which I have not seen since the mid-1980s, whereby several times a year I would appear in provincial court testifying and showing records of those drivers driving without insurance.

Finally, in addressing the proposal regarding the insurer carrier withdrawal from the marketplace and the cost of such withdrawal, I believe some of these options have been addressed by the minister and that the cost and the waiting period for withdrawal have been amended.

In summary, I feel that Bill 164 is complex. The complexity of the bill will add a costly burden to my office, the offices of the independent adjusters, the insurance carriers and the Ontario Insurance Commission, a price which the consumer is not prepared to pay in order to understand a more complex insurance product. The consumer does not wish to have a more complex insurance product at additional cost, but rather an understandable product at a reasonable cost. With regard to the increasing benefits of Bill 164, I feel that the cost to the average consumer may be too great in comparison with the true benefit to the average consumer.

Finally, when discussing some of these changes with my clients over the past few months, the general feeling is, "Why do we need these changes and how much more am I going to pay?" As a representative for my office, my staff and my clients, I feel that the efforts could be better spent on minor improvements to OMPP and on a greater focus on the road safety board to get started in reducing the amount of claims and the implementation of graduated licensing in order to help create better drivers. Thank you for your time. I hope you take my points into consideration.

The Chair: Thank you. Mr Tilson up first.

Mr Tilson: How much time do we have?

The Chair: We have about six minutes.

Mr Tilson: You've raised the point that I have maintained over and over to this government, that the tort system, the pre-OMPP system, took years and years to develop in going to courts, and now we have the OMPP which is before us, whether this bill removes all that, and already there are a whole bunch of cases that are going to the courts on that. In fact, the insurance companies tell us—and they may be right; I don't know—that in time the courts will determine a proper test, that if you let this system work, whether you have one case or another case, eventually through a number of years the proper test will develop.

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Now, of course, we've got Bill 164 and they're kidding themselves. The government is kidding itself that that isn't going to produce a whole raft of cases; in other words, the subject of general damages, the cap that's put on by the Supreme Court of Canada on general damages. Because

there's no more economic loss, will that subject change? Will courts bend over backwards to enable people to get more than \$15,000? There's going to be a whole slew of cases on that. The consumer will just be befuddled as to which situation we're going to be under. I think that seems to be one of your messages: Let's sit back, and whether OMPP was right or whether it was wrong, let's sit back. Why make it worse? Why make it worse 10 times?

I have another question for you that I haven't heard asked. Is it possible that—

Mr Baxter: Can I answer on the first part?

Mr Tilson: No, that wasn't a question.

Mr Baxter: Okay.

Mr Tilson: That was just my morning wrath against this group of people. The question I have is, do you anticipate another form of litigation, and that is by the consumer against the insurance company? I believe because of the difficulties that this government is going to be putting on them—they are not going to be allowed any more rate increases, they're not going to have any more money and yet the benefits are going to be unbelievable—insurance companies will be more and more difficult to deal with and I believe there will be more and more litigation against insurance companies. Have you any thoughts on that?

Mr Baxter: I feel that introducing Bill 164 will cause a frustration similar to the mid-1980s where the clients did feel it was them against the big insurance companies due to the cost factor. They're paying more and they're not getting what their fair shake is. Yes, if we could go back to the simple times where they hired a lawyer to get their fair shake. So it would be an attack against the insurance companies, which will start the same spiral in cases that we had that led up to the late 1980s problems.

Mr Tilson: That's the joke of it all because it has become quite clear that no one—insurance companies, lawyers, even the dippers—understands the regulations. No one understands these regulations. People are going to have to go to court because one group of people is going to say, "This is what I'm entitled to," and the insurance companies are going to say, "No." I'm being harsh on the insurance companies but I think under the circumstances that's probably what's going to happen. The result of it will be that the costs of insurance will escalate even more, even greater than these people dreamed.

Mr Baxter: When you get into complexity it does take more than one person to interpret it, so when you get more interpretations you have more people involved and thus the costs go up. The public needs to be protected. Their costs will go up through the insurance in order to interpret the product that's made for them.

Mr Tilson: So that the cost of litigation, which these people are trying to reduce, in fact will increase. It will increase on two fronts. They're saying, on their own admission, that it's going to increase as a result of the deductible principle, and there will be litigation over that subject, there will be more cases before the courts, and more importantly there will be more litigation against the insurance companies.

Mr Baxter: The insurance industry as a whole, and possibly different government officials, to try and debate the understanding of this bill.

Mr Tilson: I'd like to ask one more question and that is with respect to the elimination of age, sex and marital status. I'd just like you to comment as to your thoughts on that. That, of course, was originally proposed by the Liberals, as I understand it, with OMPP, but even they withdrew it.

Mr Baxter: Prior to OMPP, by the Ontario insurance board.

Mr Tilson: But that was withdrawn, of course, and now the concern is that in fact there's going to be a subsidization of the young, the unmarried and males. That's in effect what's going to go on. We're trying to make the premiums the same all the way across, but those who are good drivers—the records show who are good drivers—are going to be paying more premiums. Is that the message?

Mr Baxter: If you do try to come with a balanced system, with taking age and sex out of it, yes, there would be more of a balanced rating throughout the system. But at the same time you are looking towards the driving record as a principal cause. Factors and rate reflection on that have not been tested yet and are only in the studies, but I believe the Liberal government had not gone far enough on its study to say that it could come to conclusive evidence that it would work.

Mr Tilson: I'm going to give the rest of my time to Mr Kormos.

The Chair: I was just going to tell you that you had run out. That's why I was motioning to you.

Mr Tilson: That sounds usual. Mr Chairman, I must confess I don't always agree with Mr Kormos. I disagree with him on a lot of things.

Mr Kormos: Mr Tilson, I'm shocked.

Mr Tilson: But it seems to me that he is being shunted out of these proceedings—

The Chair: No, he hasn't.

Mr Tilson: —and I resent that, as a member of this Legislature. I disagree. Anybody has a right to speak.

The Chair: I had already motioned to you ahead of time. The Chair has made a decision. Mr Johnson.

Mr Kormos: Mr Tilson, I thank you graciously for your offer. You are far more generous and far more democratic than—

The Chair: Mr Johnson.

Mr Johnson: Thank you very much for your presentation. It offers some interesting perspectives. Consumers, your customers—your clients, if you will—who have been in an accident and have to make a claim become claimants, but consumers and claimants are indeed one and the same.

Mr Baxter: Yes.

Mr Johnson: When you're a consumer and you haven't been in an accident, you want to see your rates kept as low as possible. That's common sense, that people want to see their rates as low as possible. But once you become a claimant and you've been in an accident, you want to see the maximum benefit. At least, you want to get

what you think you deserve as a result of having been in an accident.

Mr Baxter: Correct.

Mr Johnson: One statement you make here is that you talk about self-interest groups that are a minority of the insurance public. Claimants are a minority, because for all the people who drive, there are fewer claimants than there are actual drivers. That's common sense.

Mr Baxter: Yes.

Mr Johnson: I think those people who have been in accidents and need rehabilitation and recovery for lost earnings and things like that want to access them as quickly as possible, and they want to maximize that. Under this new system, Bill 164, I understand that there is an improvement over the OMPP. Wouldn't you agree?

Mr Baxter: There are minor improvements, but OMPP does have some of that system covered already.

Mr Johnson: But there are some improvements so that people are going to be served more quickly, and some of the benefits have been increased for lost wages and rehabilitation.

Mr Baxter: Have they necessarily been increased for lost wages?

Mr Johnson: They have. If you look at some of the things that have been improved in the overall bill, there are certain areas where, when people have the right to claim for those things, there are increases, from \$600 to \$1,000 per week, for example.

Mr Baxter: Those options are presently in the OMPP system.

Mr Johnson: But there have been improvements.

Mr Baxter: Improvements at what cost?

Mr Johnson: That's what I'm getting to. In fact, there are improvements, and I know Mr Phillips offered this question earlier, but if you were to offer the OMPP plan versus the Bill 164 plan at the same cost, wouldn't the claimants be getting a better deal?

Mr Baxter: There would be a question whether claimants could understand Bill 164 enough to see the viability of the factor of whether to purchase that option, even if it is at a nominal cost or an equal cost.

Mr Johnson: But in the final analysis, there are lawyers, there are the insurance companies, there are brokers and then there is the consumer, who may be a claimant if, God help him, he's in an automobile accident. The whole purpose of this process is that we have an opportunity for people who become claimants to access some benefits, and that may be dollars or that may be rehabilitation. To get better benefits: Isn't that what we're all aiming for?

Mr Baxter: Whenever you get any product in life better, you usually pay more. There is no magical gift out there that gives you something better for free.

Mr Johnson: But the whole purpose of this is to make sure that people who are in accidents get benefits, that they get rehabilitated, that they are helped after the accident. Isn't that the point?

Mr Baxter: Which is the purpose of OMPP and that's why it was there. I agree there are minor improvements that could be done to it, but this bill does major improvements at major cost to the consumer, and my job as a broker is to protect the consumer for his costs.

Mr Johnson: But what about the claimants?

Mr Baxter: Also, as a claimant, to make sure he is getting the proper product for affordability.

Mr Johnson: Some of the claimants have said, and in fact at Queen's Park we've heard some of the horror stories about some of the claimants, about the problems they're having today, and this is under the OMPP system. They're not having a good relationship with their insurance company. I think the brokers are doing a reasonable job, but the insurance companies themselves, the ones that actually look after paying out the benefits—some of these people have told some real horror stories about delays that have gone on for long periods of time, many years, when they've received nothing.

Isn't it the claimant who needs to be looked after immediately following an automobile accident? Don't you think that an improvement in the timeliness of responding to their needs is something that's very valuable and important?

Mr Baxter: I agree, and under OMPP there are regulations that can be enforced to improve those improvements. This does give a better improvement above that, but we have not costed the factor for this improvement. Is the public willing to pay that as a generality, compared to the minor cases that are before the courts today and have not been settled?

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Mr Johnson: The consumer who becomes a complainant, or a claimant, rather—and maybe a complainant if he's not getting serviced properly—certainly wants to make sure he is going to get the very best benefit he can. When we look at some of the horror stories we've experienced, listening to people who have come forward at Queen's Park recently—

Mr Baxter: If I can reflect on the paragraph right after that, only 5% of the consumers I presently have have purchased increased options.

Mr Mancini: Mr Chairman, I'd like to reserve half of my time for Mr Kormos. Could you please let me know when my three minutes have expired?

Interjection.

Mr Mancini: Six minutes. I've got nine minutes altogether?

The Chair: Six minutes altogether.

Mr Mancini: Mr Baxter, thank you for your brief. It's clear, concise and gets right to the point. I'm interested in what just transpired. Mr Johnson used his entire time this morning to try to indicate to the members of the committee, to yourself, to the viewing public, that the reason the Ontario motorist protection plan isn't good enough and that the reason Bill 164 is being introduced is that they want to give more services, more benefits to the general public. I would say to you and to all who are listening that that's not true. I'd like to quote Mr Mel Swart. Do you know who Mel Swart is?

Mr Baxter: Yes.

Mr Mancini: Mel Swart is a former New Democratic MPP for the Welland-Thorold riding near the St Catharines-Niagara Falls area. Mr Swart and Mr Bob Rae and all of these New Democrats here today ran on an election platform that said, "We will provide the consumers of Ontario with (a) government-owned automobile insurance, (b) cheaper rates, and (c) full tort, full right to sue for both economic and non-economic loss."

They have in fact broken every one of those three promises. Mr Swart says—not Remo Mancini and the Liberals or Mr Tilson and the Conservatives—the reason Bill 164 is being introduced—and I quote, "Bill 164 is before the Legislature only because, after the NDP leader and members had made so much fuss in opposition, they couldn't be seen as doing nothing now." The only reason senior citizens will face higher rates, the only reason young married couples will face higher rates, the only reason people have lost the right to sue for economic loss, the only reason for all of this and the only reason for taking, because of rate increases, anywhere from \$200 million to \$500 million out of the economy, is so that these five or six ladies and gentlemen can save face within the Ontario New Democratic Party. I say shame on them. Shame on each and every one of you.

Sir, could you please tell me, in your opinion, if the road safety program were in place—if modest increases such as you've discussed this morning and changes were made to the OMPP, do you think we'd have an affordable and practical package?

Mr Baxter: Yes, I think road safety and graduated licences would improve driver safety, which would reduce the amounts of claims and claimants.

Mr Kormos: Mr Baxter, I've got to tell you what a pleasure it is for me to be once again involved in these insurance wars. I'm a little bit of a veteran, certainly not the veteran that Mel Swart is.

Look, this is what concerns me. Everybody expects puffery and hyperbole from governments. Lord knows we had it from the Liberals and, indeed the Tories before that. The problem is that the peddling of this particular bit of legislation has descended from puffery into outright deceit and dishonesty. The line that somehow benefits are going to be increased is the greatest mistruth. To wit, 90% of net—that was marvellously borrowed, plagiarized from the workers' compensation system. If you love workers' comp, you'll love Bill 164. I tell you, 90% of net was a hell of a lot less than 80% of gross, which is what the OMPP currently provides by way of wage replacement.

It is incredibly dishonest, it's an outright lie, to suggest that Bill 164 increases benefits for the vast majority of injured people. Their benefits will be reduced, and a simple calculation will substantiate that. It causes me great concern that the government will not speak honestly about that particular issue. It causes me great concern that somehow the government indicates that it's opened the courtroom doors to innocent victims so that they can litigate for pain and suffering, yet every successful litigant is going to have to pay a premium surcharge of \$15,000 back to the insurance

company. It's going to be the innocent party who's going to have \$15,000 taken from his legitimate award to be paid back into the coffers of the insurance industry. It's remarkable that somehow the government can suggest that the courtroom is an adequate place to assess pain and suffering but isn't an adequate place to assess the real economic loss of the most seriously injured.

I am in the remarkable position of having to agree with more than a few of the comments from the insurance industry. Now, that's a remarkable change from some short time ago, but I agree with those people that I would far sooner see Bill 68 tested as it is in the courts now than see Bill 164 imposed, stripping away what few rights were left to innocent accident victims, especially the rights of the most seriously injured.

It's remarkable that it's an NDP government that would steal from the most seriously injured innocent accident victims their right to be compensated. At least OMPP preserved that for them, and the courts now, in Meyer and Dalglish, as everybody well knows, are currently testing the effect or impact of the threshold.

It's remarkable and it's shameful that it's an NDP government, which promised to restore innocent accident victims' rights, that would reduce, strip away, steal from them, lock and bolt that courtroom door for ever and ever to the most seriously injured: the paraplegic, the quadriplegic, the head-injured, all those people whose lives effectively were stolen from them on the pavement of a highway. Any remedies that they might have had under OMPP are subsequently stolen from them by a government that said it looked out for the little people. Shame, shame.

The Chair: Mr Kormos, would you like the presenter to reply?

Mr Kormos: Sure, I'd love him to reply.

The Chair: I know he can talk. I know you put a lot of words into—

Mr Owens: His mouth.

The Chair: —his mouth. Would you mind replying? That'll be the end of the presentation.

Mr Mancini: Who's the Chair, you or Mr Owens?

The Chair: I'm the Chair.

Mr Mancini: Then have him behave.

The Chair: I'm deaf in this ear. Go ahead, sir.

Mr Baxter: In reply to some of his comments, yes, the 90% of net is lower than the 80% of gross until you get into very high wages, supposedly above the \$65,000 figure. I have done a calculation on my own wage. I would end up with less if I was in an accident.

Mr Kormos: The poor people are subsidizing the rich; from the New Democrats, of all people.

The Chair: Sir, I'd like to thank you for coming before this committee.

This committee will be recessed until 1:30. It will be the Thunder Bay Chamber of Commerce up first. You can put on that nice, quiet music there.

The committee recessed at 1158.

AFTERNOON SITTING

The committee resumed at 1332.

The Chair: We will resume the standing committee on finance and economic affairs, Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters. This is day one on the road, day four in the hearings.

THUNDER BAY CHAMBER OF COMMERCE

The Chair: I'd like to bring forward the Thunder Bay Chamber of Commerce. If you don't mind, take a seat up here. You're Mr Smith? Do you have any colleagues with you?

Mr Douglas L.A. Smith: No, I do not. I would acknowledge the executive director of the Thunder Bay Chamber of Commerce, Rebecca Johnson, in the audience.

The Chair: Have her come up and sit beside you. I'd like to welcome you to the committee. We have until 2 o'clock. In that period of time, after your presentation, can you leave some time for questions from the committee? If you were sitting here this morning, you saw there were a lot of questions. Introduce yourself and your colleague for the purposes of Hansard. You may begin.

Mr Smith: My name is Douglas Smith, and I am a director with the Thunder Bay Chamber of Commerce. Rebecca Johnson is the executive director of the Thunder Bay Chamber of Commerce.

Good afternoon, Mr Chairman and members of the committee. I have been a director of the Thunder Bay Chamber of Commerce for the past four years, which was that period of time within which the automobile insurance industry moved into the Ontario motorist protection plan, or OMPP as it is known today, following many studies and much investigation by all three political parties.

I would also inform the committee that I am a general insurance broker by profession, owning and operating a family business begun by my father here in Thunder Bay in 1946. Being closely involved with the evolution of the no-fault, first-party OMPP product, I have developed certain views upon the complex issues surrounding automobile insurance within the province of Ontario, but my remarks today will focus upon the concerns relating specifically to the business membership of the Thunder Bay Chamber of Commerce.

Before I begin those remarks, may I first welcome you to the city of Thunder Bay, site of the 1995 World Nordic Ski Championships, and applaud your decision for taking these hearings beyond the city of Toronto. We often feel it is the "province of Toronto" sometimes, rather than the province of Ontario, and we are always concerned about getting the northern voice to you. Also, I want to thank you for considering this regional centre, as represented by the city of Thunder Bay, rather than a smaller community which would have made it much more difficult for the majority of presenters to make travel arrangements.

The Thunder Bay Chamber of Commerce is an organization with approximately 800 members, 75% of which, like myself, are classified as small business. My message

to you, on behalf of that membership, is quite straightforward and deals with the affordability issue of automobile insurance, not only to the business community but to consumers in general.

As I am sure you can recall, the driving force behind the automobile insurance industry's move to the first-party system of no-fault insurance was the uncontrolled escalation of costs relating to the deliverance of the product to the consumer. In a five-year period in the early 1980s, the cost of third-party claims and adjustment expenses rose 16.5% each year. This created the serious imbalance between the cost of settling claims and insurance premiums. Automobile insurers experienced substantial losses and increased rates sharply. The overall marketplace tightened, resulting in the growth of the Facility Association, of course being the industry's market of last resort.

Consumers quickly forgot about any earlier period of affordable premiums and pressured the government to act. With the average annual automobile insurance premium in the mid-1980s reaching between \$700 and \$800, it became apparent that fundamental changes had to occur within the industry, hence the evolution of the Ontario motorist protection plan, which commenced in June 1990. That fundamental change was from the adversarial third-party system to the rehabilitation/income-replacement first-party system, known as Bill 68.

One of the significant requirements within Bill 68 was a review of how the new product was doing at the two-year period following its introduction; that would be the time frame we are now in. That review was to include cost control concerns, particularly in rehabilitation services, to ensure not only fairness of benefits available but also continued affordability.

Given, now, the government's attempt to introduce Bill 164 and again significantly alter and complicate the existing OMPP product, the main concern of the Thunder Bay Chamber of Commerce membership continues to be stable and predictable pricing and its environment for automobile insurance, in order that premiums remain affordable and the product remains competitively available. We recognize that the current system, as represented by the Ontario motorist protection plan, can be and must be enhanced, but changes must only be made with an eye to additional benefits that consumers both want and can afford. It is the view of the Thunder Bay Chamber of Commerce that a healthy, competitive industry is the best way to obtain such results.

At this time, I would focus my remarks upon the projected estimates of automobile insurance costs within Bill 164. The Mercer study, as done at the request of the government, and the Wyatt Co report, as commissioned by the insurance industry, both illustrate the large uncertainty as to what actual cost increases will prove to be. The Mercer study acknowledges that actual costs may vary significantly from its estimates, which were politically stated by the Minister of Financial Institutions, responsible for automobile insurance, as being a minimum of 4%. It is to be noted that the minister, appearing on a Toronto radio

talk show January 28, when asked by the host of the show as to the possibility of premium increases being higher than 4%, responded by stating that the government actuarial study did not reflect accurate costs of the operation of a system and that theoretically premiums could rise higher. The insurance industry's actuarial Wyatt report indicates that premium increases would be closer to 20% with the incorporation of the complex changes within Bill 164.

It is the very real concern of the Thunder Bay Chamber of Commerce that any increase of automobile insurance premiums cannot be currently absorbed, especially by small business, as the community struggles with stagnant growth and revenues but overall increased operating expenses. If automobile insurance premiums again begin to spiral, with businesses at the same time now having to handle additional recent corporate expenses like the employer health tax and the government sales tax, many, if not most, firms will find it very difficult as they struggle for their economic survival.

It is our message to you today that your decision on Bill 164 should not be driven by political ideology but rather stay focused upon what would be the reality of any cost increases to the consumers. Quite simply, nothing has changed since OMPP came to be. In fact, we are all aware that economic conditions are more adverse than two years ago. The consumers of automobile insurance cannot afford to pay much more than what they are paying now.

May I conclude my remarks on Bill 164 to you today, on behalf of the Thunder Bay Chamber of Commerce, by reaffirming that in order to maximize product benefits to the automobile consumer, a healthy competitive general insurance industry, both nationally and provincially, is required. In this way, service and product innovation will best serve the evolving needs of Ontario drivers.

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As a brief overview, I would remind the committee that Canada's property and casualty insurance industry currently employs about 118,000, of whom approximately 47,500, or 40%, work in Ontario. Total industry employment is split about evenly between insurance companies on the one hand and independent agents, brokers and adjusters on the other.

Total assets in Canada for the industry were approximately \$32 billion in 1991, while current industry investment in the province of Ontario was about \$9 billion. In 1991, total premium income in Canada was \$14.5 billion, of which \$7.2 billion came from business in Ontario. Automobile insurance in this province represents 60% of this \$7.2 billion, or approximately \$4.3 billion.

The point to be made is that the automobile insurance industry is a vital economic component of our province and must be allowed to operate within a predictable and stable environment if the consumer is to realize optimal benefits of coverage and costs.

In September 1990, the current government announced its plan to introduce public automobile insurance in Ontario. In September 1991, after much study, the government announced that it would not introduce public automobile insurance because it would be too expensive and disruptive to the province's economy. The main reason for

abandoning the government-run plan was a projected displacement of 22,000 jobs, mostly being female, the withdrawal of investment from the province and the projected \$1.6 billion in startup costs that would have been required. The bottom line, given the above, was that automobile insurance premiums would not be reduced to the consumer. Indeed, the Premier of the province stated that the issue of government-run automobile insurance would not be revisited again.

Given that this decision has clearly been made, it is the position of the Thunder Bay Chamber of Commerce that the government minimize its involvement in the product if the results of such involvement would be a further escalation in premiums to the consumer, which cannot be borne during these adverse economic times. Rather, the government could play an effective role with the industry by concentrating on issues like graduated licensing, road safety, physical repairs and automobile design.

Allow a reasonable rate of return to the industry, which the Coulter Osborne study in 1986 stated was approximately 12.5%, and then the free enterprise market forces will continue to serve the best interest of the consumer. The government is requested to enhance the product of automobile insurance within the existing structure of the Ontario motorist protection plan if it is determined that any of the amendments considered within the new legislation as represented by Bill 164 would result in increased costs or eventual product availability.

On behalf of the Thunder Bay Chamber of Commerce, I respectfully submit this report.

The Chair: Thank you. Mr Johnson.

Mr Johnson: At the very beginning of your submission, you mentioned that 75% of your 800 members are small business people. Is that correct?

Mr Smith: That's right.

Mr Johnson: I was wondering if you'd had a chance to review the government amendment with regard to the withdrawal provision, or if you had any comments on this.

Mr Smith: No, I haven't, to be honest.

Mr Johnson: Then let's go on with something else. With regard to self-employed people, Bill 164 has tried to take into account the special needs and difficulties that self-employed individuals have, especially with regard to those individuals who may have the misfortune of being involved in an automobile accident. Some of the changes that take place under Bill 164 are such that, for example, there's a longer averaging period—three years—to address the volatility of income; as you know, income can change a lot in a private business over a period of time. It also offers the alternative of agreeing in advance with the insurer the level of income replacement that might be required if you should not be able to do your job; also, compensation for special business expenses incurred as a result of the particular accident. These are improvements over the OMPP plan, and I was just wondering what you think about that for self-employed businesspeople who have those.

Mr Smith: To respond to that, the Thunder Bay Chamber of Commerce's position has to incorporate all of its membership, and I would say it's the escalation of

premiums in the competitive marketplace that we're most concerned about. As an insurance broker, clearly those are areas of enhancement that are required within the product. Certainly the product is evolving, as when OMPP came to be two years ago. That is why, after a two-year period, it has to be addressed and enhanced where possible, and certainly those are areas of enhancement that could be considered, yes.

Mr Johnson: So self-employed people do have special needs that need to be addressed; however they're addressed, they need to be addressed.

Mr Smith: That's right.

Mr Johnson: I talked about this earlier this morning. When we talk about the benefits versus the cost ratio, I think it's important to note that, especially for people who become disabled permanently or who need rehabilitation, there used to be a cap of \$500,000, and also a termination after a period of time—I think it was 10 years—and those caps have been removed. What that means is that those people who have suffered a very debilitating mishap will now be continually compensated after those times. That means that if people who are, say, 20 years old, after 10 or 15 years, depending on exactly what the cap is, will, if they've gone over that \$500,000 mark that right now the OMPP limits them to, or the 10 years, then they no longer have any kind of compensation. Do you not see that as an improvement?

Mr Smith: That is an improvement. Again, the bottom line from a chamber perspective is the cost of those improvements. The average premium in the province now I understand to be \$900. If that is the case, meeting expenses is becoming exceedingly difficult for small business and business in general.

Mr Johnson: I know that when I was a kid, I paid about \$600. When I was about 16, I paid about \$600 for automobile insurance, and now I still pay \$600 a year, but that's a different point altogether.

The Chair: Mr Klopp.

Mr Klopp: I'll stay on the same kind of discussion. We're proposing a lot of benefits changes in this bill. Paul's mentioned a couple. On page 2, you've made a comment that there needs to be some other changes. In all fairness, you mentioned the one about the self-employed. Are there any others that you are happy are proposed in this bill, from the indexation to better income for students if they are in an unfortunate accident? Can you make a comment on those?

Mr Smith: The only comment I would make there is the complexity of what is being offered within that bill. At this point in time, with no-fault as it is, again it comes down to overall premiums. All of that can be made available. It's a question of, will the consumer pay for it? I'm saying to you, from my perspective, that the consumer is very much at a point now where any higher increases would be very difficult, whether you make use of brokers offering optional coverages to provide enhancements, or deal with enhancements in another way so the industry can

respond to it and price it, because if it's not priced properly then there would be other problems within the industry.

The Chair: Mr Phillips.

Mr Phillips: I appreciate the chamber's presentation. I think you've given us some good thought here. Just for your own information, we in the opposition are having difficulty in understanding the priorities of the government. On the one hand, as you know, hospitals this year will be getting no increase: 0% increase this year, 0% increase next year, frozen. They were promised a 2% increase, which would have cost about \$140 million to the hospitals, but they're frozen because the government has no money. I guess we can understand how they may arrive at that conclusion.

But here we have, on the other hand, a government saying to the people of Ontario—and they have no choice; if you want to drive a car, and most people who are in the workforce or retired and want to get around need to drive a car. The minimum this is going to take out of the pockets of the people of Ontario is \$200 million; more money out of the pockets of the people of Ontario than it would have cost for the government to do what they said they were going to do on the hospitals.

Actually, if the industry estimates are right, it could take as much as \$800 million out of the economy, if that 20% increase is right. Now to put a dimension on that, that's the same as taking as much money out of the economy as raising the provincial sales tax from 8% to 9%. So that's what we're talking about here; an enormous amount of buying power, if you will, disposable income, out of the hands of people.

But the government members don't seem to be able to realize that there is a direct impact. As I say, on the one hand they're saying to hospitals, "We don't have the money." On the other hand they're saying, "But we do have the wherewithal to essentially take your taxes up"—because this is almost like a regressive tax; you've got to buy this insurance—by at least \$200 million by their own estimates, industry believing \$800 million.

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The reason I go through all of this is that I share the chamber's concern about the economy right now. It is not at all clear that we're out of the recession. By even the most optimistic estimates, the Ontario economy at the end of 1993 will be lower than it was at the end of 1989. So even with the modest recovery plan, we'll still have an economy below 1989.

My question to the chamber is this: If the government proceeds with this and if it takes a minimum of \$200 million out of the economy, have you any feeling of what that may do to helping the economic recovery we're all hoping for?

Mr Smith: From a general economic perspective, I don't think it takes much imagination to appreciate that spiralling costs—this is just another economic nail into a lot of businesses' coffins. Businesses are very much struggling right now to keep their nostrils above water, and any increased expenses from programs like automobile insurance just bring them that much closer to the brink.

Mr Phillips: From our perspective, we're having difficulty knowing why this is a priority for the government. In fact, if I were a government member, I'd be asking myself, "Do we really want to annoy all the people we're going to annoy?" Because believe me, I guarantee you, when those bills go out to the people and they see their premiums going up as a result of this bill, you will get hundreds of phone calls. I guarantee it. I know what will happen. I can't understand the priority of the government wanting to proceed with this bill. And it has a direct economic impact. You will run into all sorts of people who will say, "You didn't have the money to do the things you promised me in health care, in education, in community living," but you do have the wherewithal to pass a bill that's going to take out of the pockets of the people of Ontario significant sums of money.

My last question to the chamber: You people are close to the economic heartbeat. What is the current state of the economy, in your mind, in this area, and how are your members looking ahead over the next two to three years about the economy? Are they expecting a robust recovery? Are we well into a strong recovery? Or should we expect that we're going to have a slow, somewhat painful climb out of the recession?

Ms Rebecca Johnson: That's a good question, Gerry. A general comment is what I can provide for you. If you ask the average businessperson right now, I would say his gut feeling would be that he's managing. That's what they're doing: They're managing. If you talk to some businesspeople, they're not even taking home what their employees are taking home at the end of the business day. As Doug has already alluded to, they are just coping and that's all. Any more taxes of any kind, it doesn't matter what it is—municipal, provincial or federal—they cannot absorb. I can't say that to you any more strongly: They cannot absorb any more. It's at the point, for a lot of businesses right now, of, "Do I stay in business or do I go out?" That's probably what the average businessperson in our community would say.

There are some businesses that are doing extremely well. We are a northwestern Ontario hub, so a lot of people come into our community to do their business and some of our businesses do well because of that. That probably gives us an edge in a lot of things: in retail, in some of our small manufacturing etc. We've also been able to provide some export commodities that have done very well in the international market.

We are, of course, in a pulp and paper/forestry industry situation. If you read the papers you'll know that, as of today, it's still unknown where Provincial Paper is going to go. Our other forest products and industries are also on the brink of, "We don't know where it's going to go." If we look at the total impact of what happens if any of those close, whether it be Provincial or Canadian Pacific Forest Products Ltd or Abitibi, we are in dire straits. There is no question that we are on the brink of—I don't know what we will do at that point in time. I guess I have to look very positively, that we will do something; there is no question that this community will rally around, and we will do something.

But make no bones about it, Thunder Bay is in a managing position. I can't lay it any stronger than that. The little businessperson out there is having a tough go of it.

The Chair: Mr Tilson.

Mr Tilson: Thank you for your presentation. I've heard your organization give a number of presentations the last number of times I happen to have been chosen to come here. I will say that in spite of all the adversity you have in this area, it always amazes me how you can find something positive to say about how small business is surviving. I congratulate you.

I have one question with respect to OHIP. Under this bill, OHIP will continue to pay all medical costs, and there's been some expression of fear that the costs will increase substantially under this bill because of the benefit packages that are being set up, and that this in turn will have a rather devastating effect on OHIP. I don't know whether you've had a chance to look at any of the papers or articles that have commented on that subject, and whether you, from your perspective in Thunder Bay, have any thoughts on that area.

Mr Smith: The issue from the industry's perspective is the unlimited cap. It's very difficult to price anything that's unlimited. I think there's a whole evolution there, as OHIP and the Workers' Compensation Board etc, and those problems feed their way into the insurance industry. Again, being able to accurately cost that and the implications if it's not accurately costed are really the concern, because the market will tighten, Facility will grow, premiums will go up and we're back into the problems we had in the mid-1980s.

Mr Tilson: But not only insurance rates could go up, but OHIP rates could go up.

Mr Smith: Yes.

Mr Tilson: Mr Chairman, the Progressive Conservative caucus would yield the rest of its time on this delegation to Mr Kormos.

Mr Kormos: How much time do I have, Chair?

The Chair: About two minutes.

Mr Kormos: I want to tell you folks again: I appreciate the hospitality Thunder Bay has shown to all of us, and I appreciate you being here.

One of the problems I have—you know I wasn't crazy about Bill 68, the OMPP. A whole lot of us thought that the restriction on the right to full compensation for innocent victims was too rigid. It was interesting, because when the minister was making his opening comments he referred to but one court decision, Meyer, from the London area, which was a very rigid approach to the threshold. He neglected to refer to the Dagliesh decision, January 12 of this year, coming out of London, which was a far more tolerable definition of threshold. It strikes me as obvious, then, that the government, in determining this weird, wacko, unconscionable legislation, which, strangely, nobody's asked for—people from across the province are saying, "Who was it?" There hasn't been a phone call, a letter, not a note in the mail, saying to the government, "Restrict the right to

sue for innocent accident victims even further than what the Liberals did."

Let's talk about small business people. Let's talk about a small business person, because my family were small business people all my life—my grandparents as well—who often take modest draws from their business; whose equity, whose future, whose pension plan is in that business; who, if they're disabled from making that business work because they're struck down by a drunk or a careless or a reckless or a negligent driver. Their income is oh-so-modest; that's what their no-fault benefits are based on. Mind you, the no-fault benefits are going to be lower under this scheme than they were even under the Liberals. The benefits are lower.

You're talking about a piece of legislation that is an attack on entrepreneurs and small business people, because it will forbid you, will say you can't go to a courtroom and demonstrate to a judge or a jury that your business and your equity would have been what it could have been, had it not been stolen from you by a government that doesn't care about small business people and by a drunk driver who couldn't give a tinker's dam.

I say to you as spokespeople for entrepreneurs and for small business people, legislation that takes away from an innocent victim the right to seek justice is the last thing—I know that not all of you voted for the New Democrats. I know that. I saw the poll results. But notwithstanding that—

The Chair: Mr Kormos, you have 15 seconds.

Mr Kormos: I'd have had longer if you hadn't interrupted here.

You know that even for those who didn't vote for the New Democrats, this was the last thing in the world they expected from the New Democrats. Had the New Democrats run on Bill 164 as a policy in the last campaign, they wouldn't have elected enough people to form—

The Chair: I'm sorry. Time.

Mr Kormos: Well, don't interrupt me next time.

The Chair: I'd like to thank you for coming before this committee. Did you have an answer for him?

Interjections.

The Chair: Okay, thank you.

1400

THUNDER BAY INSURANCE
WOMEN'S ASSOCIATION

The Chair: Is Mr Bert Alcock here? I believe he's maybe delayed on his flight coming in from Kenora, so we'll call on the Thunder Bay Insurance Women's Association. If you would come forward now. Do you have any other colleagues with you?

Ms Marjatta A. Light: No, sir, I don't.

The Chair: Okay, fine. I'd like to welcome you to the standing committee on finance and economic affairs. We're on until 2:30. In that period of time if you can leave some time at the end, as you see the members are very anxious to ask questions and make statements. You may begin.

Ms Light: Good afternoon, Mr Chairman and members of the committee. My name is Marjatta Light. I've been an insurance broker here in Thunder Bay for 14 years. Over the years, I've served on the boards of several insurance organizations, including the Thunder Bay Insurance Women's Association, the Thunder Bay Insurance Brokers Association and Insurance Institute of Canada. I've also been an instructor and speaker at local insurance courses.

I am not here today representing my employer or any insurance company. I am here today because of my concern about the impact of Bill 164 on seniors and women who represent a portion of my customers.

Some years back before the Ontario motorist protection plan, I did not particularly like contacting my clients at auto insurance renewal time. It bothered me to have to tell them that there had been another double-digit increase in their premium again. Most people were very upset and angry as they hadn't had any accidents, but their insurance rates were escalating a lot faster than their pay cheques.

There were also some insurance companies that became insolvent, and people that had paid for auto insurance already, had to be changed to different carriers and repay the premiums in order to continue protection.

But then came OMPP. It has brought stability to both premiums and the auto insurance marketplace. It has been a pleasure to contact my customers at renewal time the last few years, as premiums have stayed about the same, and in fact most of my clients have enjoyed premium decreases. The market for auto insurance has never been better since I've been in this industry. Difficulties that used to be in the system for placing newly licensed drivers or those with minor infractions are no longer there. I wholeheartedly feel the consumer is being better served.

But I am very concerned about the changes to be made by Bill 164 and their impact on the present system, especially the impact on retirees and women with low or no income. Under this bill, they will be subsidizing higher income policyholders. While both will pay the same, the low-income policyholder will not qualify for the maximum benefits. In fact, if I correctly understand this bill, those insureds earning less than \$40,000 or \$45,000 a year will actually receive lower benefits than under OMPP.

OMPP in its present state has provision to increase the income replacement benefits. Those earning more than \$39,000 a year are able to purchase more coverage as an option. Those people earning more than \$39,000 a year can better afford to pay the additional costs than seniors or women with lower incomes. The opportunity to buy additional income replacement, increased funeral and death benefits and care giver benefits is working. It is fairer to have those insureds requiring the additional coverage pay for these additional benefits, rather than place the cost on everyone.

I am also very concerned that we may be turning the clock back instead of going forward with OMPP. The Ontario driving population could no longer afford the law suits and costs associated with the old system prior to the implementation of OMPP. Many studies were done and much time was spent trying to ascertain what to do to ensure that

injured parties were looked after, but yet the costs were controlled.

Will we be going back to Ontario drivers financing more paper pushing and legal costs? Will we be gaining anything by bringing back the right to sue for pain and suffering? The intent of OMPP was to channel moneys to the claimants by a system that was simple and direct, not complex and costly.

I do acknowledge that there are some situations that must be addressed and changes that have to be made to OMPP. It was known at the time OMPP was legislated that changes would probably have to be made in some areas and provision was put into the bill to make these changes, but until the system was up and running for a while, the areas of change were not known.

I believe we should be trying to modify and improve OMPP, rather than passing new legislation which will cause premiums to increase and create hardship for people on fixed incomes.

The insurance industry has suggested a schedule of benefits for pain and suffering, capped indexation of certain benefits and provision for excess economic loss, taking into consideration those who are self-employed.

Graduated licensing has proved a workable solution in other countries to protect the lives of newly licensed drivers, and road safety can no longer be put on the back burner. Government is appointed by the people to provide for our safety and this government's legacy could be to put measures in place to ensure that job gets done.

Government and the insurance industry, with input from consumers using the product, should work together as partners to make any necessary changes to OMPP.

I strongly feel that Bill 164, with its complexity and certainly its increased cost, is not the answer. Passing laws makes it harder to apply change if it is the wrong thing to do. However, OMPP has provisions already in it to make improvements that are warranted and perhaps that is the way we should be going.

On wading through the new bill, I note there is some indication that the present classification system is to be changed. Again, if this proceeds, seniors and women will bear the brunt of the increased cost. The present classification system ensures that those driver groups with the most frequency and severity of auto insurance losses pay more, while those groups with less severity and frequency pay less. To me, that seems fair.

If we proceed with changing this system, the premiums required will have to be redistributed, and those groups that pay more now will pay less. However, those groups such as seniors and young women will pay substantially more.

The present classification system has been the topic of controversy many times. However, everyone who has reviewed and delved into the situation has concluded that indeed it was fairer to charge those groups at higher risk more. Perhaps, as a progressive society, the present system's use of age, sex and marital status is a little uncomfortable, but it is a tried and proved system that is fair.

I've heard the argument that if auto insurance can't class this way, then shouldn't a 60-year-old man pay the same for life insurance as a 25-year-old man? Would that

be fair? We would all probably quickly say no. Why? Because actuarially it makes sense. Well, actuarially, the present auto insurance classification system also makes sense. That's why those who previously reviewed this matter, after much thought and consideration, left it in place.

Insurance is required by society to cover economic loss. Property insurance puts you back in the same place you were in prior to the loss; no more, no less. Auto insurance was in the past perceived as giving dividends for trumped-up claims, but we can't afford to continue paying the price.

In these tough economic times, the auto insurance policyholders' budgets are strained to the limit. They do not want to pay more for coverages most do not require. They have not asked for these changes. In fact, the satisfaction rate is high with the present OMPP product. I see a lot fewer complaints than some years back. Claims are looked after on a fair and timely basis. For those who feel there are gaps in coverage as it pertains to their case, it is imperative that they let the government board know and the insurance industry know where the deficiencies are so they can be properly addressed.

I'm sure everyone agrees that legitimate claims should be handled with competence and fairness, but can Ontario drivers afford to pay for all the invisible aches and pains? The workers' compensation plan in this province is in a state of total crisis; its very viability is at stake. Is that where we want to take auto insurance in this province? I think not.

Consumers have not asked for these changes, nor are they prepared to pay for them. Let's fill the gaps there are in OMPP and go forward from here.

I'd like to thank you very much for the opportunity to appear before you here today. I would be pleased to answer any questions pertaining to my presentation.

1410

Mr Mancini: I would like to thank the witness, Ms Light, for her brief. She's made so many good points, I'm not quite sure where I should start. I do agree with your statement that Bill 164, with its complexity, is going to increase costs because it is going to take a big room full of legal experts and others to go through these 68 pages of regulations that the government has put together to find out just exactly what you're entitled to if you become an accident victim or are involved in an accident. Why they would want to turn the Ontario insurance system into another Workers' Compensation Board is beyond me.

We have placed these questions in committee to the government members. There's not a single one of these ladies and gentlemen with the government who have joined us who has been able to explain why we need 68 pages of regulations, when before, 18 pages seemed to be enough. I want to—

Mr Owens: Hmph.

Mr Mancini: The parliamentary assistant snickers, but maybe he can afford the \$200 rate increase—

Mr Owens: Give me a break.

Mr Mancini: —but the small business people here in Thunder Bay cannot afford it; the senior citizens we know cannot afford it.

Mr Owens: What did you leave out of your regulations of 18 pages?

The Chair: Mr Owens, Mr Mancini has the floor. Mr Mancini, don't recognize Mr Owens. You have the floor.

Mr Mancini: Well then, you keep him in line.
Interjections.

Mr Mancini: Who's the Chair, Mr Owens or you?

The Chair: Go ahead, Mr Mancini. You're losing time.

Mr Mancini: I want the time added back for the interruption.

The Chair: Agreed.

Mr Mancini: Thank you. You stated earlier in your brief, before I was interrupted, that seniors would pay more. Today, I placed on the record some of the figures that the industry has generated as to how much more seniors will pay. Do you think in Toronto it's going to be fair for seniors to pay 24% more? Do you think it's going to be fair in Windsor that they pay 23% more, in Ottawa 22% more, in Sudbury region and other parts of northern Ontario over 21% more? Do you think that's a fair tradeoff in this bill?

Ms Light: No sir, I don't think it's a fair tradeoff.

Mr Mancini: I think you, better than anyone else, has pointed out to this committee—and I wanted the government members to pay attention when you were saying that—what it will do to female drivers, but they don't want to listen; they don't want to believe these statistics. I want to place on the record what will happen to rates that women pay for insurance when gender is eliminated as a rating factor. In Toronto, rates will go up 49%, in Sudbury 51%, in Windsor 50% and in Ottawa 50%. You and I know that women make less in the workplace than men. Is that not true?

Ms Light: True.

Mr Mancini: Why would any government want to increase the rates that women pay for insurance when they already have less disposable income? Is there any reason you could give me that you have found in Bill 164 that would help anyone to come to these conclusions?

Ms Light: No, sir, I don't.

Mr Mancini: Thank you.

Mr Phillips: Like my colleague, I appreciate your comments. As I said to an earlier speaker, and you may not have been here, we're having difficulty understanding—I think you have a paragraph in here that sort of captured it for me—why they are proceeding with this, why in the world, when in my opinion people are relatively satisfied with insurance.

There's a whole bunch of other things out there that require all our attention: jobs; getting the economy going; keeping our taxes down; finding better ways to service people. Yet here we are about to approve a piece of legislation that even by the government's own figures will take

\$200 million out of the pockets of the people of Ontario, and if the industry's right, it's closer to \$800 million.

My question to you is the one I asked another witness, and that is, if in your business you had the current package to offer your clients or this revised package with a rate 20% higher, which of those two products do you think your clients would pick?

Ms Light: I could probably say 95% of my clients would take the OMPP product. They don't want to hear about auto insurance rate increases any more; they've got other things on their minds. Auto insurance to them is something they don't want to pay in the first place.

Mr Phillips: My final question, Mr Chair. When the phone rings, as it will, this bill's passed, somebody's insurance needs renewing, you send out their new invoice and just hope the cheque comes back in, but normally, I think, if there's a rate increase the phone rings probably about 48 hours after you mail it. When that phone rings and it's a senior, 65 years of age, phoning to say, "Why has my premium gone up 25%," how will you respond to that phone call?

Ms Light: I'll have to be honest. I'll have to say, "I tried to stop the government from doing this but they went ahead with it anyway."

The Chair: Mr Tilson.

Mr Tilson: It's ironic that it's this party that has claimed it has always stood up for the women of this province, and yet it's as if it's out to get them. We have the increases, the general increases which have been guaranteed to us by the insurance industry, and with this particular move to in fact raise the premiums of women alone, just because it's going to be fair, it's going to make it fair with everyone, even though statistics show particularly younger women have fewer accidents than younger men and so on. All the arguments that you gave. It's almost as if it's out to do the opposite of what the party platform has been putting forward. It doesn't make sense.

The question I have to you is whether you can give us any information from a local perspective as to the cost that it might be to this particular area. There's been evidence given to the hearings that there is going to be an increase in costs because of the benefits, perhaps education, perhaps more mediation, perhaps more staff, perhaps—I'm trying to think of other examples that have been given—but, in general, the insurance industry says that the cost is going to be substantial. Can you tell us from your own observation or any financial forecast that you have to the insurance industry in this particular area as to what that might be here?

Ms Light: No, Mr Tilson, I can't answer you because we don't know. What you do is you set rates for the future all the time and you have to make sure you're bringing in enough premium to pay out the claims, but you don't know ahead of time, and a lot of things in this bill, how are you going to cost it?

Mr Tilson: Yes.

Ms Light: So there is no way. There have been all kinds of reports, I've seen the figures, but who knows? You just don't know.

Mr Tilson: Mr Chairman, the Conservatives yield the rest of their time on this question to Mr Kormos.

Mr Kormos: How much time do I have, Chair? Quickly. When the big hand's on 12—

The Chair: Four minutes.

Mr Kormos: Four minutes. Thank you kindly. I want to thank you for the opportunity to hear views. Now look, this struggle has been going on for a long time. I've got to tell you, though, my assessment of what this Bill 164 is, sometimes not entirely in jest, I call it "Made in Bucharest." It's that sort of East German pre-liberation mentality that really constituted a victory of the guilty driver, of the drunk driver, of the careless driver over the innocent accident victim.

You know that I wasn't entirely happy, nor were New Democrats entirely happy, with the restriction on the right to be fully compensated under Bill 68. The New Democrats campaigned—and I'm confident you'll recall the months before September of 1990 when they campaigned right here in Thunder Bay, across the north—on a promise to increase the rights of innocent victims and effectively reduce auto insurance premiums. However weird and wonderful it may seem, here's Ontario's first NDP government that's going to be leaving behind the legacy of having increased premiums and reduced benefits.

You recall as a broker and being active in the industry—and sometimes I wonder whether there isn't some sort of Stalinist ghost that rewrites history there at Queen's Park because people seem to have forgotten the experiences with Osborne, one of the most significant inquiries, and Osborne had very little good to say about no fault. He indicated that it was a one-time-only savings.

Indeed Kruger, Ontario Automobile Insurance Board—I gnawed my teeth as un enfant terrible, I admit, politician at the Kruger inquiry where Kruger told, after millions and millions of dollars of taxpayers' money, the government of the day that no-fault, the very kind that this New Democratic Party government, no-fault—why, it's nobody's fault, which is why everybody suffers equally—is but a one-time-only saving.

1420

Have you had any opportunity to find out exactly who it is that this government is accommodating with Bill 164? I'm in contact with a whole lot of people who are really ticked off about insurance and premiums and benefits, but I haven't heard one of them call for an increase in premiums, for a reduction in benefits and for even more restricted access to the courts. It certainly can't be working people because they're being forced to access their sickness and accident plans before they become entitled to any no-fault benefits. Small business people are really on the hook now, aren't they, because their sickness and accident plans and LTD plans are being accessed and their premiums are going to go up too. This is a real attack—

The Chair: You have one minute to get to your question.

Mr Kormos: There's a question here, Chair, just—

The Chair: I've been trying to find it.

Mr Kormos: Well, I know, you have difficulty doing that. Who was it who solicited this attack on working people? Who is it that solicited this attack on seniors, on students, on women as victims? Can you identify any groups that are happy with the government's proposal?

Ms Light: No, sir, I don't know of anyone. All I've been getting from my customers is, they don't want this and they just want to keep things going the way it's going right now. That's the attitude I'm getting from them. I'm here to convey that to you: They do not want this and they will not pay the premiums for it.

Mr Kormos: Is there a committee that meets in the Premier's office every Monday morning to say, "Who are we going to tick off this week?" Drivers this week and victims next? Beats me. Let's keep on doing it, I agree with you. Thank you kindly.

The Chair: Thank you, Mr Kormos. Now we go on to Mr Winninger.

Mr Kormos: Better than Bill 164.

Mr Winninger: Actually, Mr Kormos's question prompted me to ask this question: Do you think your consumers would like to return to the pre-OMPP regime of the 1980s when their premiums were escalating out of sight?

Ms Light: No.

Mr Winninger: Okay. Secondly, I believe it was Mr Mancini who suggested that because you have a regulation that's 70 pages long as opposed to 17 pages long it's necessarily more complex. Do you not agree that the 17-page regulation under the OMPP was complex, if you want to call such a document complex?

Ms Light: I think any time when a new piece of legislation comes out it's going to be complex, but I found this extra complex. I teach insurance courses. I'm looking at the Insurance Act here, I'm looking at this bill, and I don't understand all—

Mr Winninger: In fact, as a lawyer what I find is that sometimes a 70-page document can spell out the contingencies in a lot clearer fashion than a 17-page document where insurance brokers and agents are rubbing their heads trying to figure out what it means.

Anyway, loss of earnings: It's been suggested that 80% of gross is always higher than 90% of net, and I would put it to you and I think you well acknowledge in your paper that it's only in a certain income range—

Mr Kormos: Yes, working people.

Mr Winninger: —in only a certain segment—well, you said "all people."

Mr Kormos: Working people.

Mr Winninger: In a certain segment of the population the difference may be marginal, but I'm asking you—

Mr Kormos: Working people. People you're supposed to be representing.

Mr Winninger: —I'm asking you whether you don't agree that—

The Chair: Okay. I cut all the mikes out.

Mr Winninger: Then I'll have to get extra time.

The Chair: No, no. Hey, wait a minute. I think, Peter, that nobody interrupted you—

Mr Kormos: Mr Kormos.

The Chair: Mr Kormos. So I think the courtesy should be given to the member there also.

Mr Mancini: How come you don't say that to the parliamentary assistant when he interrupts all the time?

The Chair: Mr Winner.

Mr Winner: I think you would agree that it's in a certain income range where the difference is marginal, but I would put it to you that with indexation that marginal difference will, in the very near future under this regime, be eliminated, and that's what the actuaries have suggested.

As far as ratings for young people are concerned, you deal with all components of the auto insurance public, right? So you deal with young people, you deal with single, unmarried males, the whole works. You suggested that we should maintain the status quo rather than move towards a uniform class category—that's what I understood—and yet my constituents who call me want to pay their fair share.

So that if I go to a senior citizen and say, "Do you think John Doe down the street, who has never had an accident just like you, should be paying more than you just because he isn't married and happens to be younger than you?" And he says to me: "No. I think if he's never had an accident then he should be paying exactly what I am. Whether the person is of a different sex or different age, married or unmarried, we judge people by their accident experience."

I'm a little surprised that you would say, "Well, this bill disadvantages seniors or women," when we're looking for the best solution for all of the consumer public.

Ms Light: What will have to happen, though, is you're going to still need the same amount of premiums, so it's going to have to be redistributed and someone's going to have to pay the one that's taken away.

But I get this argument at home all the time. I have a 20-year-old son and a 17-year-old daughter, and the daughter pays a lot less for insurance. But I'm lucky; my son's studying to be an actuary, so I told him we'll have this conversation in five years again and we'll see who's correct and who's not.

Mr Winner: But the main thing is that bad drivers don't benefit from the system, and you do agree that merely by redistributing the premiums, we're not giving unfair advantage to bad drivers over good drivers?

Ms Light: You see, what happens is, we see it all the time, the frequency and severity, the statistics are there that that younger-aged category has it, and I believe sometimes it's a deterrent, the high premiums, as well, because they know that they'll go even higher if they continue to get driving infractions. So in some ways that's a deterrent, but it has been proven and continues to be proven that there are certain groups that are more high risk than others, and they should be taking more of the load.

Mr Winner: I agree with you on that, and you seem to suggest that we should maintain the status quo with only a few changes. I think we need to go a lot further

than that, particularly because there are a number of inequities that have to be addressed. But I would ask you, what are the small changes that you think should be made?

Ms Light: I believe, in respect to the self-employed, there is a gap in coverage. That has to be addressed.

Mr Winner: You mean under the existing OMPP?

Ms Light: Yes. Certainly, there is. I don't know all the specifics and I'm not prepared to answer all the specifics; I didn't think I'd have to answer on it. But certainly there are deficiencies, and we all knew when OMPP was brought in that there were going to be some things that, once it started working, would have to be addressed, and those deficiencies will have to be addressed as they come along.

Mr Winner: I guess you are aware that some of the deficiencies under the existing OMPP are addressed in Bill 164. For example, a small business, self-employed person would have his or her earnings possibly averaged over three years, to account for cycles in the economy and dips in income. At the same time, a self-employed person can elect, under section 63 of the regulation, to specify a fixed loss of earnings that will apply if he or she has the misfortune to be in an accident, an amount that will cover the factor that the operator of the business might not be able to operate the business and might have to hire a replacement person. It would also cover the expenses of running a business while the person is incapable of doing so. These are the kind of improvements over the OMPP that Bill 164—

The Chair: Mr Winner, your time is up.

1430

ONTARIO MARCH OF DIMES

The Chair: The next group to come forward is the Ontario March of Dimes. I'd like to welcome you here to the standing committee on finance and economic affairs. If anybody's looking at the schedule, we're ahead because of one participant who hasn't come in from Kenora yet, I guess with the icing going on on the planes. I know we were an hour late getting out of Toronto. I guess Mr Eddy over there had the same problem coming up today, but he said there was no hot and cold water, even, in the plane. I guess everything was frozen up.

Anyhow, if you don't mind starting, we have until 3 o'clock.

Mr Terry Bellavance: Thank you very much. My name is Terry Bellavance. I'm regional director with the Thunder Bay region of the March of Dimes.

The Ontario March of Dimes welcomes this opportunity to present its brief to the standing committee on finance and economic affairs. We thank the government of Ontario for inviting our response to the proposed amendments of certain acts respecting insurance as contained in Bill 164.

The March of Dimes has addressed this issue on two previous occasions. In April 1986, a letter brief was submitted to Mr David Slater of the insurance task force. Subsequently, the March of Dimes submitted a brief with respect to the Ontario motorist protection plan, Bill 68, in January 1990.

In previous submissions, our organization has consistently addressed three areas of concern:

- Economic loss for present and future income: compensation for the newly disabled.

- The threshold for pain and suffering: arbitrary limits on recoveries.

- Attendant care: obstacles created by the system.

Our comments on Bill 164 will be principally limited to the extent that the proposed amendments address our expressed concerns and focus on the needs of two sectors of the population: those who are presently disabled and those who will be disabled as the result of a motor vehicle accident.

At the onset, it's important to point out that the March of Dimes is here today as an organization speaking for and with adults with physical disabilities across Ontario. The views and interests expressed are those of adults with physical disabilities. We are not, in any way, affiliated or allied with lawyers or the insurance industry.

The March of Dimes strongly believes that insurance coverage in all its forms must now be regarded as one of life's necessities. Without it, one cannot participate in society as an employer, employee, home owner, automobile driver and certainly cannot take on the normal obligations of care for oneself and one's family.

Motor vehicle insurance must provide for the necessities faced by an injured person. Through our work in the area of rehabilitation of persons with disabilities, we understand the real needs faced by victims of motor vehicle accidents. While we support and understand the intent of the proposed legislation, without revision it would prove unfair to those it should be protecting the most: the innocent victims.

Since the organization's formation in 1951, the mandate of the Ontario March of Dimes has evolved significantly. The original function of the Ontario March of Dimes was to fund research to find a cure for poliomyelitis. With the development of the Salk vaccine, the emphasis of the Ontario March of Dimes shifted to treatment and rehabilitation of adults who were experiencing the residual effects of polio. Over time, the population served by the March of Dimes was expanded to incorporate all adults with physical disabilities in Ontario. The mission statement of the March of Dimes is "to assist adults with physical disabilities to lead meaningful and dignified lives."

As a result of this mandate, the Ontario March of Dimes is active in over 100 communities across Ontario, both as partners with persons with physical disabilities and in the provision of services to these adults. Ontario March of Dimes services are utilized by people with post-polio syndrome, multiple sclerosis, muscular dystrophy, cerebral palsy, spinal cord injury and brain injuries, spina bifida and other conditions which hinder mobility. This group numbers over a million people, one out of every 10 Ontario residents.

The service programs offered by the March of Dimes fall into three major categories: assisted devices, employment services and independent living assistance. While 90% of the March of Dimes funding supports these three programs, there are several other valuable services offered. These include camping and recreation, post-polio program,

public education, research and development. Appendix 1 outlines in a little more detail each of these programs.

In addition to the services provided by the March of Dimes, the organization has a strong history of issue advocacy. Often engaged in consumer advocacy and coalition-based efforts, the March of Dimes has been active in areas such as employment equity, human rights, transportation issues, training and employment, housing and support services, assistive devices, physical accessibility, government services in accessible form, challenges to the Immigration Act and income maintenance to persons with disabilities.

Economic loss for present and future income: Here, the Ontario March of Dimes agrees with a no-fault system of automobile insurance which is sensitive to the needs of persons with disabilities regardless of cause.

The need for compensation, rehabilitation and long-term care bears no relevance to the cause of a motor vehicle accident-related injury. Reforms in auto insurance to date have responded effectively to the needs of the relatively high percentage of our clients who have become disabled through no fault of their own, or the fault of others.

The schedule of draft benefits distributed as part of the proposed legislation continues to improve the post-accident prospects of thousands of individuals who have, until recently, subsisted on low compensation offered through their own insurance policies. The increased income, from 80% of gross earnings to 90% of net income, is one area worth noting.

Although the government has included certain measures which will benefit those who become disabled through an automobile accident, the Ontario March of Dimes has serious concerns with the unfair compensation for economic loss contained in the proposed legislation and its impact on innocent victims.

Under the current system, those who do not cause accidents can sue for compensation for economic loss, such as lost wages or salary and future wage or salary potential, as well as pain and suffering. The government proposal, while allowing more people who do not cause accidents the right to sue, will limit such compensation to recovery for pain and suffering, not for economic loss.

We are aware that a number of submissions that have been presented to you have reviewed this matter in significant detail. The Ontario March of Dimes agrees with the general thrust of these arguments, but the loss of economic opportunity is not properly addressed in the proposed legislation.

The young worker or the young student or the newly graduated professional seeking employment who becomes disabled as an innocent automobile accident victim suffers twice under the proposals set out in Bill 164.

The lifestyle of the seriously disabled individual is altered significantly as a result of an automobile accident. The government's legislation imposes an additional burden on the victim by suggesting that one's economic future is frozen in time. The compensation-for-income-loss provision contained in Bill 164 effectively sentences the accident victim to a low-income level for life. Instead of looking to career advancements and changing lifestyles, the person with a disability has a low-income lifestyle forced upon him.

Even taking into account the indexing provisions in the legislation, the individual is at the lower end of economic levels for ever.

Another element which we urge the government to review stems from the suggestion that those who are employed and seek extra coverage can do so by purchasing disability insurance. This option is not open to persons with disabilities who are presently employed. Many persons with disabilities cannot qualify for such insurance.

Insurance companies not only refuse to provide coverage to the seriously disabled, they deny it to those who are disabled and active in the workforce but are living with the possibility of potentially deteriorating disabilities, like those of our members who suffer from post-polio syndrome. Clearly, something needs to be done to offer such innocent people some compensation for lost economic opportunity.

Pain and suffering: The March of Dimes emphasizes the need for insurance reform to be governed by the right of the person with a disability to return to as full and normal a life as possible. For this reason, no arbitrary limits should be placed on recoveries for persons with the most severe disabilities.

The retention of the right to recovery through the courts is an important part of any insurance reform. If the proposed legislation is to fairly serve persons with disabilities, access to the courts must be a realistic option for innocent victims of automobile accidents.

The Ontario March of Dimes understands the principle behind the government's desire to restrict access to the courts for all but the most serious cases of pain and suffering. However, it is our belief that the \$15,000 deductible which the government intends to set for court awards for pain and suffering is too high a threshold figure.

The Ontario March of Dimes is aware of actions in the courts which have tried to establish a maximum threshold for pain and suffering. It is our understanding that the damage trilogy cases in 1978 resulted in the Supreme Court decision of a maximum settlement of \$100,000, indexed, for the most serious cases of pain and suffering. Allowing this figure to be indexed for inflation, the figure today is commonly agreed to be around \$250,000.

Obviously, the limit of \$250,000 applies only to pain and suffering associated with an extremely serious permanent disability. The vast majority of pain and suffering awards would not approach this limit. It is in relation to these cases of lower settlement that the March of Dimes feels the \$15,000 deductible is unrealistically high.

The figure of \$15,000 which the government is proposing effectively means that the disability required in an automobile accident will have to be extremely serious before a lawsuit becomes a realistic option. Further, if there were any contributory negligence on behalf of the injured person—ie, they are partially at fault for the accident which disabled them—then the size of the award has to be even larger for a lawsuit to be considered.

For example, if a pain and suffering lawsuit awarded a victim \$60,000, less a deductible of one third of the award for contributory negligence, the award would then be \$40,000, less the proposed \$15,000 deductible. The end result would be \$25,000.

The Ontario March of Dimes supports the spirit of the government's intentions in this area but asks that a lower threshold be set to allow more realistic access to courts by innocent victims. A more workable figure would be \$7,500.

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Attendant care: The proposed legislation provides for \$3,000 a month for attendant care. The Ontario March of Dimes has concerns, from experience in attendant care services, that this figure will prove inadequate often enough to become a concern.

Using conservative estimates and average figures, use of March of Dimes attendant care services for four hours a day at a cost of \$25 per hour totals \$3,000 per month. As one can see, the \$3,000-a-month cap will purchase an average level of attendant care service for a person with a disability.

The estimates given do not begin to address the increased levels of service required by those persons with disabilities who require more than moderate care. Taking six hours a day of attendant care as an example, the monthly cost quickly balloons to \$4,500, well above the indexed \$3,000-a-month cap proposed by Bill 164.

Clearly, there is a need for some revision of this capped figure to ensure that the innocent victims of automobile accidents do not end up consistently exhausting the \$3,000 and be forced into dipping into savings and other replacement income to purchase additional attendant care. Ultimately, these individuals could end up in a hospital bed, where the costs of care are not paid for by the insurer but by the taxpayer.

The March of Dimes is aware of the ministry task force which was announced on January 18, 1993. We salute the government for the establishment of this task force and its initiatives to address the spiralling costs of long-term care in the province. As the government looks at the whole issue of the cost of rehabilitation, the March of Dimes would like to offer its input and assistance to ensure that persons with disabilities will be able to remain in their homes whenever possible.

Amendments need to be made to the government's regulations to resolve the difficulty in obtaining optional extra coverage for disability. The proposed legislation should be amended to require insurers to offer optional endorsement coverage that would allow the insured to buy such optional coverage at a minimal cost without regard to the age or health of the driver.

In conclusion, the Ontario March of Dimes wishes to express its support for the government's initiatives and the principles underlying Bill 164. Our concerns as expressed deal primarily with the elements of the proposed legislation which we feel hurt the innocent victims of automobile accidents. These areas relate to:

- Economic loss for present and future income: compensation for the newly disabled.

- The threshold for pain and suffering: arbitrary limits on recoveries.

- Attendant care: obstacles created by the system.

In principle, we support the substantial compensation benefits contained in the draft schedule of benefits. However,

we believe that unless the noted revisions are made, the legislation will prove unfair to thousands of innocent victims of automobile accidents. We call on the government to make these revisions.

We close by quoting Mr Alan Hutchinson, writing in the January 8, 1990, edition of the *Globe and Mail*, "How we treat the victims of misfortune indicates who we are and what we aspire to be."

Mr Tilson: I want to compliment you on this presentation. I don't know whether it was you alone or whether a group of people prepared this report.

Mr Bellavance: It was a joint effort.

Mr Tilson: It's excellent. If this terrible bill ever reaches third reading, you may find part of it read back, because it's that excellent a report that I would love to use portions of it in comments to the government, because you do deal with the main issues in a very clear and concise way.

I really have just one question, and that has to do with the attendant care issue. I can't remember which page it was on, but the \$3,000 cap is one that's been expressed several times in these proceedings, that complaint you've given. Can you give any further elaboration than what you've put in the paper on that topic; specific examples you know of that the \$3,000 simply is not enough? You commented, for example, that it is going to run out—you've almost given that guarantee—and that people will be dipping into their personal savings.

Mr Bellavance: A low-level quadriplegic—in other words, he still has a fair bit of use of his arms and fingers—would require the four hours a day. Anybody with a more severe disability, who loses some of their finger dexterity, would probably require more.

Mr Tilson: Can you relate that to figures? I don't know what information you have about what goes on now with these types of individuals, the problems they have. Can you relate what it may cost someone today? I'm doing the very thing that I don't like them doing, and that's generalizing, but could you talk in terms of real-life examples?

Mr Bellavance: It costs the March of Dimes about \$25 an hour to deliver service. It doesn't matter what the service is; that's basically what the cost is. If you were dealing with somebody who needs four hours, then you're under the threshold; if you're dealing with somebody who needs five hours, for preparing meals, personal hygiene or whatever, then they're over the threshold.

Mr Tilson: I also appreciate the comments you made with respect to economic loss. When you look at the person who is on the verge of graduating or the highly skilled worker between jobs, those people simply will never, never be compensated, ever. I don't know whether you had anything to add on that area as well. The economic loss issue is what most of the opposition feels is the main terrible part of this bill.

Mr Bellavance: In the case of the young professional, there are so many variables. If the person can be retrained—which is my situation: I was in university studying to be an engineer when I was hurt; that was totally reversed so I had to totally start over at university again, but I still had

the faculties and the mobility to do that. Depending on how severe the disability is and whether there is ever any potential for some vocation—it's not a very cut and dried figure. If the person can work, he might make a heck of a lot less than he made before, but at the same time wouldn't be at the level he would have been at if he had continued on in his profession.

The Chair: Mr Harnick.

Mr Harnick: I'm just struck by the comment on page 7 of your brief: "This government's legislation imposes an additional burden on the victim by suggesting that one's economic future is frozen in time. The compensation for income loss provision contained in Bill 164 effectively sentences the accident victim to a low-income level for life."

We had the legal adviser to the minister here last week to tell us that this bill, this generous piece of legislation, will pay a student who would never get back into the workforce the equivalent of \$391 a week for the rest of his life, indexed. My calculations tell me that's below the poverty line. How can someone with a significant disability live on that kind of money week to week?

Mr Bellavance: It's impossible.

The Chair: Mr Winninger.

Mr Winninger: I certainly appreciated your presentation and I think your goals and objectives are quite laudable: improving compensation for economic loss, lowering the threshold for pain and suffering, and improving attendant care for people. I'll deal with those one at a time and perhaps you can choose to respond.

Let's look at the economic loss issue first. You're probably aware that Bill 164 actually covers 97% of full-time earners compared to 73% under the OMPP.

Mr Harnick: At \$391 a week.

Mr Winninger: We've heard cited several times the famous case of *Teno v Arnold*, which is one of the Supreme Court of Canada trilogy cases that established a cap for the worst forms of injury for pain and suffering at \$100,000. But that same case allowed the four-and-a-half-year-old girl who was hit by the car and left mentally and physically disabled—first of all, they awarded \$7,000 per year for lost future income; that equates to, plus or minus, \$17,000 in 1992. Then they took off a 20% contingency for the possibility that she might have earned less because of illness etc, and the final award for loss of income was \$6,000 per year, about \$13,000 in 1992 dollars.

So I would suggest to you that the system of compensation under tort for loss of income was an imperfect one at best. I think that case illustrates some of the pitfalls of that system. At least now, under our schedule of statutory accident benefits, we have fairly fixed amounts that people can turn to.

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On the issue of the threshold for pain and suffering, the Ontario March of Dimes, during the hearings on Bill 68 a few years ago, supported a verbal threshold for the most seriously injured, saying, "We feel that the retention of the right to recovery through the courts is an important, in fact essential, component of the proposed OMPP." So they

supported the verbal threshold of the day. Perhaps unfortunately for the March of Dimes, only a minuscule number of claims are actually being heard by the courts that meet that serious and permanent damage threshold. I think you're aware that under our proposed legislation, access to the courts to sue for pain and suffering we estimate would increase by a factor of at least three, so I submit, there's an improvement there too to the people you represent.

Third, you've acknowledged that the minister has set up a task force to study issues around rehabilitation and long-term care and whether the \$3,000 proposed cap might be adequate or not. We'll have to await the outcome of that.

I wonder if you want to respond to any of the remarks I made, or whether I should ask you a specific question.

Mr Bellavance: In connection with the task force, I'd certainly like to see more consumer representation on there.

Mr Winner: I see.

The Chair: Mr Johnson, one minute.

Mr Johnson: Do you think the changes on the cap for rehabilitation for people who have been injured significantly—there's a cap of \$500,000 right now, and that's been removed. Wouldn't you say that was a very positive thing?

Mr Bellavance: I would say that was positive, yes.

Mr Johnson: And the fact that no longer, after a period of 10 years, are you going to be left high and dry, that you're going to be compensated further?

Mr Bellavance: I would say that was positive too.

Mr Johnson: So there are definitely some positive things with regard to Bill 164.

Mr Bellavance: Yes.

Mr Johnson: That's good. Thank you.

The Chair: Mr Mancini.

Mr Mancini: How much time do I have?

The Chair: Five minutes.

Mr Mancini: Can you let me know when I've used up two and a half minutes? I want to give the other two and a half to Mr Kormos, please.

Mr Kormos: Thank you, sir.

Mr Mancini: I'd like to say to our witness how impressed I am with the brief. I had some experience in the late 1980s working very closely with organizations such as the Ontario March of Dimes, and always found them to be more than cooperative and helpful in forming government policy.

I want to say to you that you're not the only witness who has been lectured to by the NDP members. Every time there's a witness who comes forward who talks about

getting back or saving or maintaining the right to sue for economic loss, we get a lecture from one of the NDP government members. Usually, they have some law training. Some of them do; some of them don't. But the witnesses always get a lecture that, "We're giving you more benefits," and "You're at the vagaries of the court system," and "It's like rolling the dice," and it's all of these things, and, "You don't really deserve to have the right to sue for economic loss."

I want to remind each and every one of the New Democratic Party members who are here today that it was you people who promised government-owned insurance. It was you people who promised lower rates. It was you people who promised full accessibility to the courts. You made all those promises, and it is shameful that you lecture witnesses who appear before the committee on wanting to be able to keep those rights that you said they should be able to have.

Interjections.

Mr Harnick: Remember those promises, going door to door telling people those things? They lied.

The Chair: Order. This is the gentleman who's here, to listen to what he has to say. I know he knows what you're going to say, but go right ahead again, without all the chorus.

Mr Mancini: Are you adding more time for this interruption?

The Chair: It was your crew.

Mr Mancini: My crew? My crew was sitting here quietly. What are you talking about? Do I get more time, yes or no?

Mr Bellavance: Can I be excused, please?

The Chair: Yes. It's your time.

Mr Bellavance: Thank you very much.

The Chair: Thank you.

Mr Mancini: Thanks a lot, Mr Chair.

The Chair: This committee will recess for five minutes, until 3 o'clock. We're waiting for Mr Alcock to come in from Kenora. He seems to have left, but he's not here yet. So we're recessed for five minutes, and if he does show up, we'll go on at 3 o'clock.

The committee recessed at 1455 and resumed at 1501.

The Chair: It is a little past three and our next witness has still not confirmed that he'll be here. We have a plane to catch. This committee is adjourned. We'll meet at 10 o'clock tomorrow in Windsor.

The committee adjourned at 1501.

Substitutions present / Membres remplaçants présents:

Eddy, Ron (Brant-Haldimand L) for Mr Kwinter
Haeck, Christel (St Catharines-Brock ND) for Ms Ward
Harnick, Charles (Willowdale PC) for Mr Sterling
Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince
Edward-Lennox-Hastings-Sud ND) for Mr Christopherson
Klopp, Paul (Huron ND) for Mr Jamison
Mancini, Remo (Essex South/-Sud L) for Mrs Caplan
Owens, Stephen (Scarborough Centre ND) for Mr Sutherland
Tilson, David (Dufferin-Peel PC) for Mr Carr
Winninger, David (London South/-Sud ND) for Mr Wiseman

Also taking part / Autres participants et participantes:

Kormos, Peter (Welland-Thorold ND)
Owens, Stephen, parliamentary assistant to the Minister of Financial Institutions

Clerk pro tem / Greffier par intérim: Carrozza, Franco

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

- ***Chair / Président:** Hansen, Ron (Lincoln ND)
- ***Acting Chair / Présidente suppléante:** Haeck, Christel (St Catharines-Brock ND)
- Vice-Chair / Vice-Président:** Sutherland, Kimble (Oxford ND)
- *Caplan, Elinor (Oriole L)
- Carr, Gary (Oakville South/-Sud PC)
- Christopherson, David (Hamilton Centre ND)
- Jamison, Norm (Norfolk ND)
- Kwinter, Monte (Wilson Heights L)
- *Phillips, Gerry (Scarborough-Agincourt L)
- Sterling, Norman W. (Carleton PC)
- *Ward, Brad (Brantford ND)
- Wiseman, Jim (Durham West/-Ouest ND)

*In attendance / présents

(Continued overleaf)



Ontario

F-22

F-22

ISSN 1180-4386

Legislative Assembly of Ontario

Second Intersession, 35th Parliament

Official Report of Debates (Hansard)

Tuesday 2 February 1993

Standing committee on finance and economic affairs

Insurance Statute Law
Amendment Act, 1993

Assemblée législative de l'Ontario

Deuxième intersession, 35^e législature

Journal des débats (Hansard)

Mardi 2 février 1993

Comité permanent des finances et des affaires économiques

Loi de 1993 modifiant les lois
concernant les assurances

Chair: Ron Hansen
Clerk: Tonia Grannum

Président : Ron Hansen
Greffière : Tonia Grannum

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Tuesday 2 February 1993

The committee met at 1000 in the Windsor Hilton, Windsor.

INSURANCE STATUTE LAW AMENDMENT ACT, 1993 LOI DE 1993 MODIFIANT LES LOIS CONCERNANT LES ASSURANCES

Consideration of Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters / Loi modifiant la Loi sur les assurances et certaines autres lois en ce qui concerne l'assurance-automobile et d'autres questions d'assurance.

The Chair (Mr Ron Hansen): Good morning. Welcome to the standing committee on finance and economic affairs, considering Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters. This is day five, and day two of travelling. We came from Thunder Bay yesterday and we're glad to be here in Windsor.

ASSOCIATIVE REHABILITATION INC

The Chair: I'd like to bring forward the first group, which is Associative Rehabilitation Inc. Please identify yourself for the purposes of Hansard.

Ms Joanne Gram: I'm Joanne Gram, vice-president of operations with Associative Rehabilitation, and this is June Gordon, who is our manager of quality assurance.

The Chair: If you don't mind, we have one half-hour. In that one half-hour, can you leave some time at the end for members of the committee to ask questions?

Ms Gram: Associative Rehabilitation is the largest provider of disability management services in Canada. We have provided vocational rehabilitation and related services to the disabled since 1981. During that period, we've handled more than 8,000 individual cases on referral from insurance companies, lawyers, employers and government agencies. These cases arise from motor vehicle accidents, workplace accidents and other accidents and illness. They encompass disabilities which are major as well as minor in degree, being physical, mental and psychological in nature.

In Mr Charlton's strategy publication, Considerations in Reforming Accident Compensation, he cites three cornerstones of the proposed reforms: (1) reasonable treatment for all injured persons; (2) fair compensation which recognizes fault; and (3) affordability.

As our primary focus is disability management, we'll try as much as possible to restrict our comments to this field of expertise and the first of these cornerstones, which is reasonable treatment for all injured persons. We probably have lots of comments on the other sections, but we'll contain ourselves to our area of expertise. In doing so, we're assuming that you've heard from the insurance,

legal and medical communities in some detail. Since we've had the opportunity of working in past and present systems in Ontario, we feel we're able to assess both the positive and the negative implications of this legislation.

June and I have been in the business now for over 13 years each, which, if you know anything about private rehabilitation, is an extraordinarily long period of time. We may not look like we've been in that long, but we have. Some days we feel older than others. Largely, our experience is with, and our empathy is for the disabled. We're going to summarize the views of our staff at Associative Rehabilitation, which encompasses some 150 people across Canada.

The issue of public education: One of the major issues we've seen under the Ontario motorist protection plan has been a general lack of knowledge and understanding of overall rights and entitlements under the prevailing OMPP legislation. We refer not only to the average policyholder, but to insurance adjusters, medical advisers, lawyers and people like ourselves, rehabilitation specialists.

The average person simply does not know what is in his policy and specifically what his entitlements are if he is disabled in some sort of motor vehicle accident. Different insurance companies have positioned themselves, understandably so, differently on the same issues, as interpretation of the policy and how the officials of the company make that interpretation seems to be the key.

Therefore, we feel that clarification needs to be available to all parties. Although one could argue that two and a half years into OMPP we're in better shape in terms of that understanding, which of course we are, one could also argue that the stakes are too high, ie, people's livelihoods, to allow a system to take this long to be understood. These impending changes make that understanding and clarification even more complicated.

We strongly recommend, upon passing Bill 164, if in fact that's to happen, that an objective and thorough education campaign be undertaken with the goal of educating the public as to their obligations and rights under Bill 164. Assistance should be given to the insurance companies because this is a very costly endeavour for them as to their rights and legal obligations under the policies, as well as education to the medical community and the rehabilitation specialists as to the key role they play under Bill 164 and, again, the OMPP.

I don't like to present issues and then not present what we feel is a reasonable solution, so I'll try and do that throughout my presentation.

One way to achieve the goal of public education is to have a booklet in layman's terms and available in different languages designed to be enclosed with the government forms for completion by the insured. It should be mandatory for the insurer to enclose such, and to offer explanation upon

request. We find that most of our clients and/or the insurance companies, as long as it's understood by both why they're doing what they're doing, whether it be denying a specific benefit or a specific—as long as everyone understands why that is happening, then there's less dispute that arises, and all of these disputes cost everyone considerable dollars.

For the insurance companies, a detailed training plan, complete with interpretation, should be afforded them to allow consistency in decision-making; again, across insurance companies. I understand that in private business part of the differences between companies is their interpretation and what not, and that's part of what they sell as their product. However, I feel it's a very, very expensive undertaking for insurance companies to interpret all of these things and to train their staff in the interpretation, and something should be afforded to them with respect to that.

We've just gone through a major change, two and a half years ago, with the OMPP, which cost everyone a lot of money in the insurance industry. Now there's even more complicated changes proposed and this is going to be expensive for everyone.

For the medical community, I think there needs to be some education as to the key role they play so that when they're signing these forms and documents attesting to someone's extent of disability, they understand exactly what that means.

The second point I want to make is the access to benefits. It's our view that basically any claims-driven system by nature is adversarial. Under any such system, which includes that described in Bill 164, there exists an inherent problem of the access of the claimant to that held or controlled by the manager of that claim, or the benefit. Some literature produced by the government with respect to OMPP and Bill 164 has commented on the adversarial nature of the tort system. Obviously, this is true.

However, the role held by lawyers to ensure this access on behalf of their clients has not been replaced in the legislation. The closest the legislation comes to identifying such a role is the role to be played by the medical community in initiating certain rehabilitation and care activities. The type of general education referred to in point 1 certainly would help promote access, but can by no means be relied on to ensure that disabled people have full access to the benefits accorded under Bill 164.

It's our recommendation that if an entitlement-access dispute arises, the insured be afforded the funds to consult with an adviser so that his or her interests are represented. We say this also with respect to those parties who are not capable of representing themselves in mediation. Many of our clients cannot speak English very well and are unable to negotiate in those proceedings and then have to consult with lawyers who are very expensive.

Clearly, entitlement to benefits which are covered under the policy should be accessed, but explanation for those who are not able to receive the benefits or why they can't should be explained to them in writing so they can understand this and, therefore, hopefully resolve the disputes and save everyone extensive dollars on that issue.

The issue of benefits conversion or, I believe they call it, the loss of economics, which is to be implemented at the 104-week point: While the process of the conversion at 104 weeks from income-replacement benefits to loss-of-earning benefits is a step forward in terms of the concept, we're not certain why the definition change of disability has been lessened from 156 weeks to 104 weeks. Also, we feel this part of the legislation is very unclear.

First, it's unclear in its general concepts; maybe you understand it but we certainly don't. It appears that the initiation of the process is at the discretion of the insurer alone.

Second, it appears there's something magic about the 104-week point. Again, it's declined from 156 weeks to 104 weeks. Is it meant to be a review point, or is there an assumption that at 104 weeks it's some sort of watershed on all disabilities?

Third, the assessment process does not appear necessarily to take into account any rehabilitation efforts that have taken place up to that point.

Fourth, the role of the attending physician is not clearly specified.

Fifth, if the goal of rehabilitation is to maximize potential—again, if—and to restore as best possible an individual to pre-disability levels of functioning, the two-year assessment process appears less inclined to maximize potential and more inclined simply to expedite some level of earnings or some level of perceived earnings.

Sixth, there do not appear to be any explicit considerations for ongoing or continuing rehab after the two-year point, with a goal of maximizing potential.

1010

Seventh, referring to the language of sections 25 and 26 in the draft, we're concerned about the uses of words that deem people employable, as opposed to showing it to be so. Phrases such as "could earn," "best satisfy the criteria" and "reasonably possible" suggest much subjectivity on the part of this assessment facility that's referred to. This goes against the grain of rehabilitation, which should be dealing, not subjectively in assessing possibilities but objectively in achieving realities. Additionally, what is meant by "assessment facility" is not clearly defined.

We want to talk about the goals of rehabilitation. The goal of rehabilitation is never defined in the legislation. There are lots of definitions at the beginning; "rehabilitation" is not one of them. It seems to me that if presently there is \$500,000 available for medical and rehab expenses, as well as an additional \$500,000 soon to be uncapped if this goes through, there should be a definition of what exactly this means.

Section 53 suggests that rehabilitation exists to "permit the person to engage in employment that satisfies the criteria of subsection 26(4)," or to "shorten the disability period during which the weekly benefits are payable." Section 33 refers to the goal of "reducing or eliminating disability relating from injury." While all of these are true, these functions need to be reconciled and put in a clear context for all parties to the process.

We would strongly suggest that if not defining the word "rehabilitation," the legislation should contemplate

more definitively a goal of rehabilitation to ensure that the insurer, the insured and all other parties are clear on why such activities are to be undertaken. Clear reference should be made to the maximization of potential and restoration of pre-disability level of functioning, and thus earnings, taking into account an individual's physical and psychological limitations, as well as interests and aptitudes.

Emphasis, in our opinion, should be on placement of the individual, if at all possible, not on just determining potential. Prior to OMPP, rehabilitation was hired from the beginning to the end of the rehabilitation process; with OMPP sometimes was put on, off, on and off the file, and to me that's a detriment to the whole process.

The timing of rehabilitation: Section 33 outlines that an insured person who's sustained injury as a result of an accident is entitled to rehabilitation benefits and that payments in this section are for all reasonable expenses occurred. We would suggest that the term "reasonable" be defined.

Section 53 then contains a provision that the insured will participate in rehabilitation if offered and allows for benefit reduction if refused. We believe this is a very positive step. However, there are no guidelines for the insurer to offer rehabilitation. We strongly suggest that parameters be established for insurance companies as to when rehabilitation should be offered. Timing is important for the success of rehabilitation, and we have proven over and over again in studies that early intervention facilitates effective rehabilitation, and thereby return to work, and therefore dollars saved to everyone.

Bill 164 emphasizes timely rehabilitation care as a benefit under this proposal. It acknowledges that rehabilitation should begin immediately. That's in the Considerations booklet. Our suggestion would be that rehabilitation should be mandatory at a certain stage within disability. Surely if an assessment at 104 weeks is the key to continuation of benefits, an assessment of rehabilitation potential and initiation of this activity within two months, which is what we're suggesting, is critical. This is for the protection of the insured as well as the insurer.

This is complicated legislation, as was the implementation of OMPP. For the sake of everyone, so as to prevent the halting of activity or not rendering any activity, time frames should be set on a mandatory basis for each. In other words, if the insurer can offer rehabilitation to the insured at a certain point, if he refused, then the benefits could be stopped at that point, or reduced, whatever. That should be mandatory, in my opinion.

We also feel that the monthly cap on long-term care should be addressed. While removing the 10-year limitation on the attendant care benefit was a positive step, the monthly cap of \$3,000 is restrictive. Those who require this, in our experience, being the severely catastrophic injuries such as the quadriplegics, often require 24-hour attendant care. This medical requirement could translate easily into \$8,000 per month and, if deemed necessary—and to me, that would be the key—by a medical practitioner, it should be payable. Having said this, we should also recognize that most of the clients under this system do not come anywhere near reaching the \$500,000 cap. So on

one hand, it's a moot point. But for the people to whom it really pertains, it's not effective enough.

The critical issues to us, with respect to this legislation and, quite frankly, the present OMPP legislation, are the independence and the objectivity of the rehabilitation as well as the qualifications of the people rendering this service. As I stated earlier, June and I have been in the business probably the longest of anybody I know, so we've seen different systems come and go, different ways of approaching problems come and go. We feel that we're talking knowledgeably in this area.

With respect to independence and objectivity, interestingly, the legislation makes much of the 104-week assessment being independent but makes no such requirement of the rehabilitation itself. For rehabilitation to be successful, the process must be objective and done independently at arm's length. As we stated earlier, any claims system is inherently adversarial. That's understandable. Any rehabilitation process that works on the side of the insurance company or only works as advocates for the disabled can only bring subjectivity to the process. We strongly suggest that the legislation make reference to this in its definition of the role of rehabilitation.

Prior to OMPP, with rehabilitation, insurance adjusters stayed in their area of expertise; rehabilitation people stayed in their area of expertise. In my opinion, under the OMPP, the waters have got muddied, and we each, on different occasions, try to get into each other's roles. I believe this is very detrimental. Therefore, one of the recommendations we have with respect to this is that emphasis should be placed on standards and qualifications of those administering long-term care and rehabilitation.

As one of the cornerstones of the proposed legislation, Mr Charlton talks about "reasonable treatment for all injured persons." There should be some standards with respect to the providers of rehabilitation and long-term care to help ensure this. Issues such as ethics, qualifications, independence and service standards must be considered. For example, doctors are governed by their own system, as are lawyers, in terms of the OMA and the bar association and the law society. The rehabilitation provider needs to be governed by such a body of regulating officials as well. There is a process in place presently in Canada for those who choose to participate, and the key is, if you choose to participate, there is a regulating body. Not everyone practising in the field—and I use that term loosely—is governed by this body and its code of ethics.

Therefore, we would suggest that a rehabilitation provider must (1) be an impartial facilitator of the rehabilitation process; in other words, be hired as a third party adviser, no matter who hires them; (2) provide services as an objective party to ensure the insured receives fair and equitable treatment; (3) be qualified with the Canadian certified rehabilitation counsellor designation or be directly supervised or interned by individuals with these credentials and thus be bound and subject to discipline under the code of ethics as per the CCRC designation.

This is relatively new designation in Canada is an attempt to try to govern rehabilitation providers; the first writing was in April 1991. There are—I'm guessing just on my

last figures, although there's just been another sitting—approximately 150 to 170 people presently licensed to be able to provide under that governing group and thus by its code of ethics. To me, that's a key point in this legislation and, quite frankly, in the existing OMPP if this legislation wasn't to go through.

Basically, that's all we have to say. There's some time for questions, if there are any.

1020

The Chair: Mr Mancini, about three minutes.

Mr Remo Mancini (Essex South): I think your brief is well put together. You've hit on a number of themes that we've heard over the past week or so. You mentioned the affordability issue, and that's something that's come up time and again before this committee. Are you aware just how much insurance rates will increase to consumers because of Bill 164?

Ms Gram: I've heard approximately \$200 per policy.

Mr Mancini: That's about correct, and if we use the government's own figures, if we use the government's consultant's figures, the firm of Mercer from New York, at 4.5%, and if we factor that through by multiplying that figure by the number of drivers in this province, that amounts to almost \$200 million. Do you think, using the government's own figures, that Ontario taxpayers are in the position today in the middle of a four-year recession to fork out \$200 million for Bill 164?

Ms Gram: I think I'd rather keep my area of expertise to rehabilitation.

Mr Mancini: That's fine.

Ms Gram: I agree that that's a lot of money, but that's speaking as a private citizen, not as a rehabilitation provider. I agree that that's an astronomical amount.

Mr Mancini: That's using the government's figures.

Ms Gram: Yes.

Mr Mancini: If we use other industry figures, it goes as high as 20%, meaning more than \$600 million in rate increases on the people of Ontario. We heard from a group last week, the Coalition of Motorcycling Organizations. They told us that approximately 6% of their members don't buy insurance, and because of Bill 164 they think that's going to go anywhere from 9% to 12%, and that's going to put a lot of strain on health care. It's going to put a lot of strain on people who do the job that you do, because who knows where the money's going to come from to pay for those services?

Ms Gram: Exactly.

Mr Mancini: You also mention the complexity of the legislation.

Ms Gram: Yes.

Mr Mancini: Are you familiar with the regulations?

Ms Gram: I have a copy of the draft legislation, which I've gone through.

Mr Mancini: Do you have all 68 pages with you?

Ms Gram: Yes, I believe so.

Mr Charles Harnick (Willowdale): Tell us what it means.

Ms Gram: If I had the answer to that, I wouldn't be in the rehabilitation business. I mean, it's very complicated. Everybody says that it is. I mean, we know that.

Mr Mancini: The Chair has told me I have one minute left. Are you aware that the most senior officials in the insurance industry, lawyers and other professionals, have told us that it's going to be difficult, if not impossible, to figure out what these 68 pages mean?

Ms Gram: That's exactly why we've recommended some sort of public education, not at the insurance companies' expense but at the government's expense, if they want to implement—

Mr Mancini: You mean at the taxpayers' expense.

Ms Gram: Exactly, but there's nothing you can do about that.

Mr Mancini: Do you think it's necessary?

Ms Gram: I'm sorry, but it's necessary to understand the legislation.

Mr Mancini: I agree. If Bill 164 passes, if the NDP members force Bill 164 through the Legislature, we're going to have to do one of two things, as you said. Either the taxpayers are going to have to pay people to try to understand an incomprehensible document, or people will pay through their insurance rates. Do you think that's fair?

Ms Gram: Well, no, I don't. But, again, that's as a public citizen, not as a—

Mr Peter Kormos (Welland-Thorold): Apparently the government doesn't know either.

The Chair: Okay, I have to go on to Mr Tilson.

Mr David Tilson (Dufferin-Peel): The issue of education, I think, is the message that I've received from your presentation this morning, which I do appreciate. Certainly one can say, "Oh, well, the doctors, they've got lots of money, they can train and retrain themselves on the different workings of this new mysterious system and understanding these regulations that you speak of"—

Ms Gram: But it's not anything to them. I mean, they don't—

Mr Tilson: Well, one can say that and then one can say, "Oh, well, the lawyers, they've got lots of money, they can do the same thing," and one can say, "The insurance companies"—

Ms Gram: They're not going to have any left.

Mr Tilson: There aren't too many left, I'll tell you.

Ms Gram: That's right.

Mr Tilson: One can say, "The insurance companies, they've got lots of money, they can spend lots of money and do all this sort of thing." But you get down to the innocent accident victim. It always gets down to the consumer.

Ms Gram: They're the ones who lose, yes.

Mr Tilson: Who's going to educate those people? Who's going to spend the vast amounts of money to educate those people when they come up against the doctors

who say you're okay, the chiropractors who say you're okay, the lawyers who are fighting for the big insurance companies, the insurance companies themselves? You know, they say, "Oh, well, we'll get rid of this tort system because the lawyers have been skimming off the system," so they get rid of that.

Ms Gram: Now it's a mediation system.

Mr Tilson: They get rid of that. But who's going to represent these people?

Ms Gram: That's why we recommended advisers of some sort, but again—

Mr Tilson: And who's going to pay for those people?

Ms Gram: It costs money. There's no doubt about it.

Mr Tilson: The government, these people, they bankrupt the province, so who's going to pay for it?

Ms Gram: I don't know anything about that.

Mr Tilson: That's what this whole subject gets down to: Who's going to represent these people? It's sad because there isn't anyone. Mr Harnick has a question for you.

The Chair: One minute, Mr Harnick.

Mr Harnick: It's interesting that in your brief you talk about the role of the rehab counsellor to bring injured people back as close as they were to the situation they were in before the accident.

Ms Gram: Correct.

Mr Harnick: This legislation, I tell you, takes away the right of innocent victims to claim any economic loss they have beyond the benefits that the government is prepared to provide them. Do you agree this will make the job of the rehab worker more difficult, to get him back into the position he would otherwise have been in, if he suffers a shortfall by way of economic loss if he's innocent?

Ms Gram: Yes.

Mr Harnick: Thank you.

Ms Christel Haeck (St Catharines-Brock): Thank you very much for your brief. I do appreciate your comments. I had the privilege of sitting on the range of bills on the Regulated Health Professions Act, so I understand some of your comments around attendant care. There have been some very important comments made by you and a number of the other groups that have come before us.

The St Michael's group who came before us last Thursday indicated that they really support a multidisciplinary approach to the assessment and diagnosis of the patient. I would assume, as a result of hearing your brief, that in fact you would support the same.

Ms Gram: What we try to do as rehabilitation professionals is to work with the attending physician and the people who know the client the best. We try to work as a team, whether it be psychologists or whoever, all together working towards a common goal, which is maximizing the potential. One of the detriments that I see, as I think I understand this, and I preface that, is there are some assessments—the term "assessment facility" and the independent exam kind of idea may not be working with the attending physician. Again that's a concern to me.

But, yes, I agree that the multidisciplinary approach, if appropriate, should be implemented; but sometimes it isn't. Sometimes the injuries are minor, yet the person continues with limitations, so the only thing you need to do is work with the attending physician. You don't need to draw in all these people at everybody's expense if it's not necessary.

Ms Haeck: The Greater Niagara General Hospital has basically a quick response team to deal with a number of issues like this, and I know they're one of the few in the province. What that has resulted in is a major saving to the health care system and particularly to that hospital.

Ms Gram: That's the early intervention—

Ms Haeck: Early intervention.

Ms Gram: Exactly.

Ms Haeck: So at what point does your group actually get involved? Do you actually visit the patient in the hospital?

Ms Gram: We can. It depends. Our fees are paid for by the insurance, the company, the employer, the individual, the family, the lawyer, whoever decides to hire us on the case. The only time we get involved is at their discretion, which is why we're saying that there should be, as much as there are people who abuse the system—and there are people out there, so if they turn down rehabilitation, it should be mandatory for them. But it should also be mandatory, we feel, for the insurers to at least offer it, and we're suggesting at the two-month point; and again that's not early enough. In some cases—June does a lot of the file assessment and does the quality control.

Ms Haeck: So immediacy really is the issue?

Ms Gram: Sometimes it's within one week.

The Chair: Ms Haeck, time's expired.

I'd like to thank you for coming to this committee.

Mr Harnick: On a point of order, Mr Chairman: I just wonder if Ms Haeck can enlighten us as to what any of those questions had to do with an examination into Bill 164.

1030

Ms Haeck: I can enlighten you, Mr Harnick, if you would like an answer.

The Chair: I'm sorry. This is not a point of order.

Mr Kormos: It was a good point just the same.

The Chair: Thank you for coming before this committee.

Mr Robert V. Callahan (Brampton South): On a point of order, Mr Chair: I had raised my hand. I presume you've run out of time, have you?

The Chair: I had recognized Mr Mancini first and then he used up all the time.

Mr Callahan: All right, that's fine. I just wanted everybody to know that I'm here.

The Chair: Yes, okay. Welcome to the committee. Good morning, Mr Callahan, we did go around the first day and introduce everybody.

HEAD INJURY ASSOCIATION
OF WINDSOR AND ESSEX COUNTY

The Chair: The next group we have coming forward is the Head Injury Association of Windsor and Essex County. Just for the committee members, there is no brief to be handed out but it will all be in Hansard. You can read it tomorrow.

I'd like to welcome you here to the standing committee on finance and economics. We have one half-hour, until 11 o'clock. As you can see, the members like to ask questions, so if you would leave at least 10 or 15 minutes it would be appreciated. You may begin.

Mr Greg Monforton: My name is Greg Monforton and I'm a lawyer, but I'm not here in my capacity as a lawyer so much as I am as the chairman and president of the board of the Head Injury Association of Windsor and Essex County. This is a community organization dedicated to improving the quality of life of persons suffering from the effects of head injuries.

The goals of the board are to promote public awareness and hopefully reduce the incidence of head injury. But speaking entirely on my own behalf, it's nice to see the broad consensus among the various members of this committee. I'm sure it's a gratifying thing for the electorate to see.

What I'm going to do is briefly address certain parts of the legislation which fall seriously short of addressing and dealing with the needs of head injury victims and persons with head injuries in particular. But in order to understand how Bill 164 wrongs people who live with the effects of brain injury, it's first necessary to understand the nature of brain injury itself. It's permanent. Once a brain cell is damaged or killed it will not regenerate, and the functions performed by that cell are lost for ever.

It's also not generally understood that damages to the brain do not need to be severe or dramatic to be significantly life-changing. Oftentimes, trauma to the brain can cause subtle cognitive and behavioural changes which occur even when there is not a direct blow to the head. People who suffer this type of injury often complain of physical, cognitive and psychosocial difficulties, including problems with dizziness, impaired attention and concentration, fatigue, depression, alcohol intolerance, irritability, impulsivity, headaches, insomnia, memory difficulties and impaired abstract thinking, giving such persons great difficulty in processing information. This in turn leads to an inability to react appropriately to events which we all encounter in our daily lives.

At the Head Injury Association of Windsor and Essex County, we call these kinds of deficits hidden disabilities. These people have difficulty functioning independently, but because they're not in a wheelchair and not the victim of any other form of obvious disability, they're often perceived by those who deal with them as uncooperative, stupid or having a bad attitude. Put another way, the words we use to describe these impairments paint dark and ugly portraits of persons suffering with the effects of a brain injury.

A normal person who has no motor, neurological or mental impairment can set and drive life's agenda, but persons suffering with the effects of a head injury have no such freedom.

What I'd like to do is briefly discuss four particular aspects of the proposed legislation which, in the view of our organization, falls seriously short of justly dealing with persons suffering with the effects of head injuries.

The first aspect of Bill 164 that I want to comment on is access to timely and appropriate rehabilitation. Rehabilitation should be a central goal of the legislation, particularly with respect to head injury victims. It's in everybody's interests that injured persons get on with their lives. I don't think there's any disagreement there.

But anyone who lives with cognitive difficulty as a result of a brain injury suffered in an automobile accident is at a severe disadvantage against the insurance company and the insurance industry in ensuring that his interests with regard to rehabilitation are properly considered. Although people in the employ of the insurance company may assist the brain-injured person with the forms, there's an obvious conflict. The company's representatives are motivated to save costs for the insurance company. They always have been and always will be.

If the matter does go to mediation or arbitration, the plight of the victim is worsened. Without legal counsel and available funds to pay for expert witnesses equal to that of the insurance company, the injured person has little hope of winning at arbitration.

A recognition of these inequalities is centrally important to an assessment of the rehabilitative process envisioned in Bill 164. If the victim's family doctor recommends treatment, the victim is usually referred to a service provider. Treatment isn't commenced until funding with an insurance company is arranged. Rehabilitation must be authorized by a doctor, almost always specified by the insurer, before the insurer will undertake the costs. The insurer controls the purse-strings.

It's not uncommon for doctors to view rehab as an unnecessary expense. They're not trained to assess the vocational implications of injuries. Often doctors hired by the insurance companies have their perspective in mind. The accident victim then must convince the insurance company that rehabilitation is necessary. The insurance companies and the adjusters often don't have the background or experience to understand the rehabilitative process. The result is that accident victims often go without effective treatment designed to get them back into the workplace and functioning in life. He or she is told to find another job where the problems won't come into play. The unwillingness to retrain is particularly true where the injured person is an unskilled labourer.

But the problems of head injury victims are compounded further. A common result of head injuries, as I said before, is the inability to process information. These types of injuries often go undiagnosed for long periods of time. The victim, as again said before, is perceived to have motivational problems. Since benefits and rehab are centred around the issue of employability of the victim, correct diagnosis of the symptoms of an injury of this type and appropriate rehabilitation are central. Yet often the insurance adjuster simply is unable or unmotivated to understand the symptoms the accident victim is complaining of. The result is a denial of benefits with the option of rehabilitation being

permanently foreclosed, and this is when we're dealing with well-intentioned and motivated people.

It's simply impossible to over-emphasize the competing interests that are at stake here. The insurance industry is interested in saving costs, period. That's what initiated this entire debate three or four years ago, and anybody who thinks it was anything else is either a person of bad faith or, at the very least, very naïve. In effect, as was described by the Ontario Head Injury Association, this legislation turns the innocent accident victim into David and the insurance industry into Goliath. The only difference, though, is that in these cases Goliath will always win.

What we need is a situation in which the victim, the innocent accident victim, has his or her interests represented by a level playing field. Where a person is required to complete forms or any other documentation in order to receive benefits, the insurance company should pay for that person to consult independent legal counsel of his own choosing to assist him.

Mr Mancini, I think, made an excellent point when he held up the 68 pages of legislation. I'm a lawyer; I deal with this type of situation every day. I'm having a tough time with these regulations. Now, something tells me that if I'm having a difficult time with them, a person suffering the effects of a head injury is going to have at least as tough a time.

As another suggestion, penalties incurred by insurance companies where the arbitrator finds that funding for treatment or rehab has been unreasonably withheld must be severe enough to reflect what the injured party suffered as a result of the insurer's refusal to pay.

Mediation and arbitration panels should be entitled to consult with recognized experts in the field of traumatic brain injury, and the insurance companies should bear the costs of those consultations.

Vocational rehabilitation consultants and counsellors should be allowed to present evidence at Ontario Insurance Commission mediation and arbitration meetings. Since vocational rehabilitation is centred around the issue of employability, those counsellors are the only professionals with the insight to determine what work a victim can realistically do and what retraining will be required.

It's important that we all remember that the victim's ability to lead a productive life is at stake here. Every effort must be made in this legislation to facilitate this.

The second aspect of Bill 164 that I want to comment on is attendant care benefits. The monthly cap of \$3,000 is, in my submission, totally unrealistic. A survey carried out by the Ontario Head Injury Association shows that persons suffering from behavioural problems arising from a head injury can necessitate care costs as high as \$600 per day. The type of care being contemplated by this legislation provides, at best, bare necessities. It's clearly far less than the cost to care for a person who requires more than full-time or even 40-hour-a-week attendant care.

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People who are "lucky enough" to have suffered injuries before the passage of either Bill 68—that being the OMPP of course—or Bill 164 receive compensation for all their losses. But with the attendant care cost limits involved in Bill 164, I'm sure that anyone who sustains injuries in an

auto collision has a future devoid of opportunities and choices.

It's quite likely that in many cases, given this limit, the only feasible alternative will be to place insured persons in institutions or group homes, where the cost would be covered by government assistance instead of by those responsible. We at the Head Injury Association of Windsor and Essex County find this completely unacceptable.

Institutionalized care does not provide the opportunity needed by a brain injury survivor, and the quality of that individual's life will deteriorate along with his physical, mental and emotional condition. So I would strongly encourage the government to lift the monthly cap of \$3,000, both because it's inadequate in itself and because its deficiencies are likely to be exacerbated by a tendency to view this as the upper limit.

Lastly, it's fundamentally important that the person determining the amount to be paid by the insurance company for home care or future care have recognized expertise in the brain injury field to ensure that the attendant care costs being provided are responsive to the needs of the injured victims and provide the injured victims with a sense of opportunity and choice that non-injured persons take as a right.

The third aspect of the bill I want to talk about is that it prevents victims from obtaining compensations for lost opportunity or lost earning capacity in the future. I imagine this is an aspect of the bill that's going to be commented on by a number of individuals making presentations before you. It's completely contrary to the fundamental principles of this province and this country that an innocent accident victim is not able to pursue and not able to be compensated for the losses, and every loss, he has suffered as a result of an accident in which he was involved through no fault of his own.

I don't think it's hyperbole, I really don't, to say that people have given their lives in world wars to preserve this kind of right for the citizens of this country, and what the government is attempting to do is deal with on a mass or grand scale what has to be dealt with on an individual basis. Justice demands it.

In effect, what the government has done here is treat accident victims with a snapshot, freezing them in one place and station in life. Many people who sustain head injuries in motor vehicle collisions range in age from 16 to 25 years old. Their economic potential has not yet been determined, and many haven't yet completed their education and aren't yet established in their careers. However, they're for ever assigned to a benefit level based on their position at the time of the injury. This is obviously unrealistic and in no sense just.

The last aspect of Bill 164 that I want to address is the \$15,000 deduction from awards for pain and suffering. The traditional right of innocent victims to seek redress through our court system has, for all practical purposes, been legislated out of existence by Bill 68, the OMPP. Again, it seems very reasonable to me that people who find themselves injured and disabled and unable to pursue their dreams and their obligations and their responsibilities should be entitled to full compensation for those losses.

The system in the past has recognized the right of persons to go before a court of law and state their case before a jury of six people, who in effect are acting as the conscience of the community, and to seek redress for the loss that they've suffered. But again, the government has chosen to take away this right and in fact under the present legislation allows this right only to persons who have suffered what a recent judicial interpretation categorized as virtually catastrophic injuries.

The result is that we, as licensed drivers, involuntarily pay insurance premiums in the event that we're in need of their protection. When in need, our injuries, although tangible and real and pervasive, are deemed not important enough to warrant compensation.

The insurance industry has spent a lot of time and money, particularly money, over the past three or four years trying to convince the public that innocent accident victims are all motivated by greed and are treating their claim as some sort of personal lottery, thereby enabling them to retire wealthy. In my own experience, virtually nobody is aware, certainly when talking to people on the street, of the relatively modest amounts of money which are awarded for pain and suffering in this country.

Virtually nobody that I've spoken to is aware of the fact that a person who has suffered, for example, a quadriplegic injury, which will result in that person suffering excruciating pain, disability, disappointment and anguish every single day for the rest of his or her life, is restricted to a pain and suffering award of approximately \$250,000. People are flabbergasted to hear this.

People are flabbergasted to hear that if a parent loses a child as a result of the negligence of a drunken driver, the most the court will give that parent for the loss of that child's companionship is somewhere between about \$15,000 and \$30,000. People can't believe it, and yet the insurance industry has, through a very clever and effective course of manipulation, convinced the public that there are multimillion-dollar awards out there for people suffering from hangnails or stubbed toes and that massive reform was necessary. In fact, that's simply not the case.

In closing, the goals of this legislation are laudable, they really are. I think what's trying to be achieved makes a lot of sense, but I think it's another example of something that looks tremendous on paper not working out very well when you apply it to real, live people.

It represents another major step in what I see is an undoing of fundamental human rights to which this province has always been committed. As I said before, under the former system, under the pre-OMPP law, people had a right to seek redress from the courts and from their fellow community members and I'm going to suggest to you that the vast majority of times the decisions rendered were the correct ones.

But the government, in effect, is saying: "We know better. We can do better." What any reasonable examination of this legislation fails to answer, the question that this legislation begs is very simply, who will speak for the victim?

The Chair: Okay, Mr Tilson?

Mr Tilson: How much time?

The Chair: Just close to five minutes.

Mr Tilson: Mr Monforton, I want to thank you for coming to the committee and presenting us with your very concise thoughts. You pretty well covered all the issues that have come before this committee to date, and I will say that the main message that appears to come from your presentation is, what is to become of the innocent accident victims?

That's something we in the Progressive Conservative caucus have been asking ourselves ever since this bill was first introduced, or when it was conceived in the back rooms of some hotel in Honey Harbour. I don't know when it was conceived, but nevertheless it's been a concern we've had. We keep waiting for the NDP—this was its message a number of years ago, to protect the innocent accident victims, and that seems to have gone by the door.

There's certainly still one member, I suppose, in their caucus who has been trying to speak in this committee. Our caucus is going to allow him our time, Mr Chair, to direct questions because the NDP won't allow him to speak.

The Chair: Mr Kormos—

Mr Kormos: Thank you, Chair. Thank you very much—

The Chair: Mr Kormos, just a minute.

Mr Kormos: Have I got time or not, Chair?

The Chair: Okay. I just want to make a point that you've decided to sit there. You've asked them for time. You have not put your hand up to ask a question.

Mr Kormos: Chair, that's a silly comment and you know better than that.

The Chair: No, it's not. I just want to set it straight. You haven't put your hand up to be recognized on the government side.

Mr Harnick: You keep turning off his microphone.

The Chair: When he's out of order. Go ahead, Mr Kormos.

Mr Kormos: I don't know what cabinet position you're vying for, but the cabinet's getting smaller, not bigger. Trust me.

Mr Monforton, good to see you here. Now, listen, you've been more than charitable about this legislation. I call it "made in Bucharest." It certainly doesn't reflect what Bob Rae and New Democrats promised people, not just in the few months before the last election campaign, but literally for years. And who'd a thunk it was New Democrats, because even though there were a whole lot of people who didn't vote for them, those people still understood that it was New Democrats who fought for the little people, for the victims.

Bill 68 at least left the courtroom door open for the most seriously injured, notwithstanding that it had to be near catastrophic, according to Meyer. This bolts and locks and bars the courtroom door. Even now, to the most seriously injured it says, "No, you're not going to receive full compensation or anywhere near adequate compensation for your losses." This bill is a betrayal, obviously.

I was with Bob Rae when he stood on platforms with some of the largest audiences of his political career when he was advocating the rights of innocent victims, and now we see the most complete betrayal. It was either a lie at the time or a betrayal at the present. And there's been this bizarre Stalinist-style rewriting of history around Queen's Park, something of an attempt to erase the records of the past.

Let me ask you this: The government talks about increasing benefits, yet benefits levels, even on the no-fault schedule, are being reduced to 90% of net from 80% of gross. For most victims, that's going to mean a reduction in the weekly no-fault benefits. They talk about increasing access to the courts, yet the fact is they've imposed a \$15,000 deductible because access—how can courts be good for determining pain and suffering but no good for determining economic loss? It's a pretty whacko bit of sophistry, isn't it?

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Mr Monforton: I agree with you entirely and, again, if you ask the average person on the street, "What does this \$15,000 deduction amount to?" I think most people would say, "Well, that will get rid of very minor claims." But in fact \$15,000 awards are entirely consistent with people who have suffered one, two or three years of ongoing pain and suffering from soft tissue injuries, from acceleration-deceleration injuries. To suggest that this \$15,000—

Mr Harnick: Fractures.

Mr Monforton: That's correct.

Mr Harnick: Fusions.

Mr Monforton: That's true.

Mr Kormos: Doesn't it really mean that the innocent victim has to pay a \$15,000 kickback into the insurance company's coffers? Isn't that what it amounts to in the final analysis?

Mr Monforton: I see it as a taxpayer subsidy to the insurance industry.

Mr Kormos: Holy zonkers. I guess that was a king-size bed and there is room for this government too. It's a ménage à trois.

The Chair: Mr Winninger.

Mr David Winninger (London South): Thank you, Mr Monforton, for your presentation. I'm only going to deal with part of it because I know my colleague Mr Lessard has questions as well.

We dealt, in response to Mr Mancini's comment, with the complexity of the regulation. Isn't it true that legislation and regulations pertaining to auto insurance are generally reduced to a standard automobile insurance policy, and that if people have difficulty with that, often the insurance companies provide flyers that describe the benefits available?

Mr Monforton: Isn't that true? No, I don't think that is true and I think the past two years have shown that. Regardless of whether they're suffering from a head injury or not—and I'm not reflecting on their intelligence or their ability—the realities of the situation are that people are

completely unable to deal with the complexities of the situation. So no, I don't agree with that.

Mr Winninger: It might interest you to know that yesterday we had a presentation in Thunder Bay by a consumer representing head-injury people, and he addressed the issue of access to support for the head-injured, access to people who could assist them in putting forward their claims. It came to mind that our legislation, Bill 74, the Advocacy Act, actually sets up a commission to provide advocates for vulnerable people, including the head-injured. I wondered if you were aware of that.

Mr Monforton: I don't think that's the issue because, in the final analysis, if an unresolvable conflict arises somebody has to have the expertise and the ability to take it to its ultimate conclusion, which has historically been in the courtroom.

Mr Winninger: The head-injured asked us to lower the threshold, and we did, for pain and suffering. We've opened access to a factor of probably 3 to 1 compared to OMPP. We've also increased the loss of earnings benefits so that now 97% of full-time earners are covered compared to only 73% under OMPP. For those who aren't covered, the Insurance Act certainly permits them to purchase excess economic loss coverage.

I know that time is short and I just wanted to draw your attention to a case you're well aware of, adjudicated under the tort system, Teno and Arnold, in 1978, a four-and-a-half-year old girl hit by a car.

Mr Monforton: I'm well aware of the case.

Mr Winninger: For loss of earnings, economic loss, the court awarded \$7,500 then and discounted it by 20% for a contingency that she might have earned less due to illness or other reasons. So the final annual award for loss of income was \$6,000, which equates to about \$13,000 in 1992.

Mr Monforton: I don't think that's correct, Mr Winninger.

Mr Winninger: If you have other figures, we'll talk about it afterwards, but our plan—

Interjection: Talk about it now.

The Chair: Order.

Interjections.

The Chair: Order.

Mr Winninger: We'll deal with Mr Gilby this afternoon. Can I complete my question? Are you aware that under Bill 164 the loss of earnings that child would be entitled to would reach 90% of the net average wage—

Mr Harnick: It's below the poverty line.

The Chair: Order.

Mr Harnick: It's below the poverty line.

Mr Winninger: I know the truth always hurts, Mr Harnick.

Mr Harnick: It's below the poverty line.

Mr Winninger: Which before tax shall be down. If you don't want to hear the facts—

The Chair: Mr Harnick.

Mr Harnick: Shut up.

The Chair: You told me to shut up? I'm sorry.

Mr Winninger: I'm telling you, under Bill—

The Chair: Hold it. I'm going to call a recess.

Mr Harnick: I'm sorry; my apologies.

The Chair: Okay; we'll carry on.

Mr Winninger: Under Bill 164, the child would be entitled to the net average wage before tax of \$30,000. Are you aware of that?

Mr Monforton: I think the fundamental premise of your statement is incorrect. I'm not suggesting it's being done intentionally, but I think you're misrepresenting the breakdown of dollars awarded to this child back in 1975 or 1976. I don't have the precise figures in front of me, but a significant portion of that award was on account of future care costs, as well as future loss of earnings.

Mr Winninger: I wasn't dealing with that. I'm sorry; that's a different component of the award.

Mr Monforton: Loss of future earnings.

Mr Winninger: I'm dealing with loss of earnings, which you say we don't cover adequately, and showing how the tort system did not serve this child as well as Bill 164 would.

Mr Monforton: I wouldn't agree with that, and there's no question that the proposed system does not adequately or fully compensate persons who through no fault of their own have suffered very serious injuries.

Mr Winninger: Mr Lessard has a question.

The Chair: I'm sorry. You've run out of time there. You know what happens sometimes? You get so many lawyers here, you're unbalanced. You're overbalanced now with lawyers. So we go to Mr Mancini.

Mr Mancini: Mr Monforton, I want to thank you for coming before the committee. You bring a certain expertise here that is valuable and is needed. I'd like to make a point, though, before my first question.

Over the years, and in particular just before the last election, the Ontario New Democratic Party, now the government of Ontario, promised three things in regard to insurance. They promised (a) government-owned insurance, and they broke that promise. They promised (b) lower rates, and with Bill 164 they're breaking that promise. They promised (c) full access to the courts, and with Bill 164 they're breaking that promise.

I think it's a little bit hard to sit here and take Mr Winninger's arguments that the tort system has not worked well, when only 24 or 30 months ago he was convincing people that was the only system that could work for our citizens and for injured victims and for anyone else who needed insurance.

I want to ask you a direct question. You've had experience in working with the courts pre-OMPP, you've worked with the Ontario motorist protection plan and you may have to work under Bill 164. If you had your choice of any one of those three systems, which one would you take, and why?

Mr Monforton: I would choose the pre-OMPP situation because that system reflected the fact and acknowledged the fact that the way an injury affects a particular person is as personal to that person as his or her fingerprints. The primary problem with Bill 68 is that it deprives a tremendous number of people of the right to seek any compensation whatsoever for their pain and suffering, the net result being you've got people who have been hospitalized for six months to a year to a year-and-a-half to two years, who are left with significant but arguably not devastating residual disabilities and they're entitled to nothing whatsoever for their pain and suffering. I find that to be fundamentally unjust; so does the Head Injury Association of Windsor and Essex County.

Mr Mancini: This is where I would have a serious disagreement with you. I was in the Legislature pre-OMPP, I served constituents pre-OMPP and we had a flood of constituent representation and a flood of constituent phone calls, not orchestrated by any insurance company, but constituents who came to myself and my colleagues who said: "You've got to stabilize insurance rates. Insurance rates are going through the roof." One of the things that we promised and one of the things we did was in fact to stabilize insurance rates. If we were to go back to pre-OMPP, insurance rates would go through the roof.

Now what do you have to say, Mr Monforton? Because this is important. We must address the affordability issue. It's nice to say that everyone should have all of what they need and ask for etc, but somebody's got to pay for it. That's why this province is going to have a \$12-billion deficit this year. What do you have to say about the affordability problem that exists today?

Mr Monforton: I think it's a very good question, and if the fundamental premise of your question is, has Bill 68 served to increase the profitability of auto insurance for insurers in the province? absolutely, there's no question about it.

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Mr Mancini: Has it stabilized rates?

Mr Monforton: I can only say this much: We all know that in the, say, one-and-a-half to two-year period prior to the passage of the OMPP, the insurance industry would be out there in the press every three or four months crying about—

Mr Mancini: Has OMPP stabilized rates?

Mr Monforton: It's certainly increased profits.

Mr Mancini: Has OMPP stabilized rates?

Mr Monforton: Has it stabilized rates? I can't answer that.

Mr Mancini: You're not aware of that.

Mr Monforton: Well, stabilization of rates—

Mr Mancini: Mr Monforton, I'm surprised that you would make this a debate between who should make profits and who shouldn't. You're a Windsor resident, are you not?

Mr Monforton: Yes, I am.

Mr Mancini: Did Chrysler Corp make almost \$800 million profit in North America this year? Are you against that?

Mr Monforton: Oh course I'm not against that. I don't see what—

Mr Mancini: Fine, that's fine. No, no. Now that we've established, Mr Monforton, that you're for some companies making profits and other companies not making profits, where do you draw the line?

Mr Monforton: No, Mr Mancini, you're misstating my words. I've never said I'm against the insurance industry making a profit.

Mr Mancini: I'm an advocate for the consumer. I want my bias to be very clear. I am an advocate for the consumer. Consumers have told me by the hundreds, if not thousands, that they could not afford insurance rates pre-OMPP, and under Bill 164 they're not going to be able to afford it either. This legislation will take anywhere—

The Chair: Mr Mancini, can you come to the end so he can reply, because your time has run out?

Mr Mancini: I appreciate that, Mr Chair.

Mr Monforton: I've kind of forgotten what the question is.

Mr Mancini: I want to give Mr Monforton the chance to reply directly to consumers. I want Mr Monforton to reply to consumers.

Mr Monforton: Well, is your question about—

Mr Mancini: Do they deserve rate stability?

Mr Monforton: Is your question about Chrysler—

Mr Mancini: Do they deserve to afford insurance?

The Chair: Wait a minute, Mr Mancini. Let him answer, please.

Mr Monforton: First, if your question is, would I like Chrysler to make a profit, yes, no question about it. If your question is, would I like the insurance industry to make a profit, I'm certainly not averse to them making a profit, because over the long haul if they don't make a profit, they're obviously not going to continue to provide insurance.

What I can tell you is that for the two-year period prior to the passage of OMPP, the insurance industry was out there crying every month. They'd be in the newspaper, on the front page of the Globe and Mail and the Windsor Star crying about how they're not making any money. All I can tell you is that since OMPP has been passed, except for the past few months when this has become a hotbed of controversy, they've been deathly quiet. Now we can each, I suppose, come to our own conclusions as to why they've been quiet, but they've been very quiet.

In fact, the reality of the situation is this, Mr Mancini, because I represent injured accident victims every single day, and I can tell you that the insurance industry over the past two years has become more intransigent. They are less willing to settle claims out of court. They are encouraging litigation. I've had numerous experiences in the past two years where I've dealt with very experienced, well-respected insurance counsel who cannot get their companies

to back up the recommendations they make on the settlement of personal injury claims. Prior to—

Mr Mancini: One final question—

Mr Monforton: Let me finish. Prior to the passage of the OMPP—

The Chair: There is no final question.

Mr Mancini: He's answering a question I didn't ask.

Mr Monforton: I think it is in response to what's been asked.

The Chair: We're listening—

Mr Mancini: I appreciate that, but it's question and answer and the gentleman has to answer questions that I've asked.

The Chair: I said your time had run out, but I'd like to hear the gentleman's reply.

Mr Monforton: Your question pertained to the profitability or the effects of this Bill 68 on the insurance industry, and what I'm trying to do is tell you how it's affected the people I represent. What I'm telling you is that oftentimes now, since the passage of Bill 68, insurance counsel, lawyers hired by the insurance industry, very good lawyers, very well-respected and effective lawyers, are unable to get their companies to agree to settlements which they feel are reasonable and fair.

Prior to the passage of Bill 68, that almost never happened, never, and I'm not talking about \$600,000 claims. I'm talking about \$30,000 claims, \$20,000 claims, claims where you've got insurance counsel who've been doing this work for 30 years and whose opinions and advice have always been sage and appropriate, now being told by their companies, "We'll pay it when a court says we have to pay it," and that's the only thing that'll get the insurance industry to treat people fairly.

Mr Mancini: So you would prefer to go back pre-1990. You would prefer to go back pre-OMPP.

The Chair: I'm sorry, Mr Mancini, your time has run out.

Mr Monforton: If your question is—

The Chair: No, there are no more questions. Sir, I'm going to have to say the time's up. We've gone over about four or five minutes. I was listening to your reply, because we're here to listen to the consumers out there.

Mr Monforton: Thank you all very much.

The Chair: Thank you.

Mr Stephen Owens (Scarborough Centre): I have the case, by the way, if you'd like to review it.

Mr Monforton: I may just want to.

ONTARIO INSURANCE BROKERS
AMBASSADOR ASSURANCE BROKERS INC

The Chair: The next group we've got coming forward is the Ontario Insurance Brokers. I'd like to welcome you to the standing committee on finance and economics. We will have until 11:35 since we were a little bit over, so you have your full half-hour. If you don't mind introducing yourselves for the purposes of Hansard, you may begin.

Mr Jerry J. Beneteau: Good morning, ladies and gentlemen. Now that we're all wide awake, I'm sure, my name is Jerry Beneteau of Ontario Insurance Brokers, a local brokerage firm here in Windsor employing a staff of nine people. Our firm has been in business serving the needs of the insurance community here for more than 100 years.

In your travels you've heard from many groups already, including the Insurance Brokers Association of Ontario and the Insurance Bureau of Canada. They have each expressed views which may seem to be divergent at times, yet are unanimous in their concern over the cost to the insuring public.

Today we would like to present some of our concerns as brokers in a slightly different way, the way in which we discuss these issues with our customers. We hope this might ring a bell with you and assist in our mutual goal to provide Ontario citizens, the driving public, with the best auto insurance in Canada at an affordable price.

I would like to introduce to you Mr Norm Kelk. He's the secretary-treasurer of Ambassador Assurance Brokers Inc, another insurance firm here in Windsor. Mr Kelk has 24 years of experience in dealing with the public. While he is a friendly competitor of mine, I have no hesitation in suggesting to you that he will make an effective and meaningful presentation.

Mr Norman Kelk: We're viewing this from the point of view of the kinds of questions we get asked by our people, because I think that's what's important. It's what the consumer is looking for and what he wants.

He asks us, "What's the price?" He asks us, "Is it good coverage?" He asks us, "Will I have a problem collecting if I have a claim?" He doesn't care much about what it says. He doesn't care how long it is or what the policy actually says. Those are the questions he wants us as brokers to answer for him.

"What's the price?" Now I have to tell him I don't know what the changes will cost, but there's universal agreement that the cost will increase since the benefits are increasing. The current system has provided price stability since 1990, and all rate changes must be approved by the Ontario Insurance Commission based on a full cost submission by the company requesting the change before they can be implemented now.

Everyone would like more benefits but they want to know how much. A recent survey shows that over 80% supported increasing benefits in auto insurance, but when they were asked if, with a cost of \$50 added, they would support it, the support dropped to just over 50%. Significantly, when the cost was indicated as \$100 or more per year, the support dropped below 30%. Cost is an issue in the public's mind and this is what it wants us to address.

"Is it good coverage?" Yes. Your current policy provides the highest level of no-fault accident benefits in Canada, and we believe in the world; I'm not familiar with outside of Canada and the United States, but certainly in North America, and you have the right to sue for economic and non-economic loss if your physical injury is both permanent and serious. There is a need to fine-tune these benefits. For example, there's a clause making workers'

compensation claimants ineligible for any OMPP accident benefits even though workers' compensation does not provide all the benefits available under the auto policy and has stricter requirements. So we do have to change some things.

"Will I have a problem when I make a claim?" No, and I can say that unreservedly, despite Mr Monforton's comments about the adversarial nature of the system. Under the current system, you'll be collecting your benefits from your own company in almost all cases. The accident benefits definitions of "disability" are very broad. They're as broad as in any insurance policy I've ever read governing disability insurance. The medical and rehabilitation benefits are available for "all reasonable expenses."

The first presenter suggested that this was too broad and that it should be defined, but it is, for "all reasonable expenses," as are care benefits, currently up to \$500,000 for each benefit, and regulations provide for quick resolution of disagreement through the Ontario Insurance Commission which, incidentally, has been underserved because it's got far less complaints in the first two years than it expected, by a quantum number. They expected to have to be staffed dramatically higher.

Those are the questions the insureds are asking us. Those are the answers we're giving them. It's my experience that OMPP in its current form has been successful in providing more dollars more quickly to insureds and has dramatically stabilized premium costs at a time when other Canadian jurisdictions have experienced sizeable rate increases. British Columbia drivers, for example, are seeing rate increases this year of 9.5% after 19.5% last year, and if you want to go back further, they've had increases every year since 1988. In Ontario we haven't had any since 1991, and in fact decreases.

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OMPP has also been successful in opening the market to so-called grey risks, those in Facility, the problems we've had with availability prior to companies being able to expect to make some kind of profit, whose only problem was that they did not have a clean and continuous driving record.

Unfortunately, when I speak after a lawyer I have to make sure I clarify that am a layman, and as an informed layman, I believe, tackle the issue of the right to sue. I can summarize it all, and I'll try to do it in the end because this may be a little difficult to follow.

The current right to sue for physical injuries of a permanent and serious nature causes concern to the legal profession as an infringement of an individual's right if the threshold is not met since no compensation is available for pain and suffering. The proposed solution in Bill 164 attempts to address this by way of a universal right to sue, but only for pain and suffering and subject to a \$15,000 deductible. This bill proposes replacing the right to sue for economic loss when seriously and permanently injured with complex formulas, regulations and unlimited liability on the part of the person's own insurer—not the at-fault insurer, not the at-fault driver—to whom he paid the premiums.

This isn't a Cadillac of coverage; it's a Formula 1 racer. Under the laws of Ontario auto insurance it is compulsory, in

the amount of \$200,000 as a minimum. You must buy \$200,000. The majority of auto policies in Ontario, well over 60%, are purchased with \$1 million of coverage.

None of this creates any serious problems for insurance companies and reinsurers. It is a benefit that can be costed and priced and sold to the public. But unlimited liability through a combination of accident benefits with no caps and the right to sue will be difficult if not impossible to provide at a reasonable cost, since the current regulations apparently make it impossible to factor in past losses to current rates.

They have to be approved by the OIC, and the example currently that I can tell you is that the Facility Association recently requested approximately 16% rate increases based on its experience. Part of the increase was denied. They said, "No, you can't have 16%, because part of that's because you lost money last year. You can have 8% approximately because that's what we feel you need for the current benefit." In OIC regulations, it's not allowed to take into consideration past losses.

What's the answer to this? I believe personally that you should retain the current right to sue as it is, with the immediate addition of psychological trauma. That's something the Insurance Bureau of Canada has agreed to. They have suggested that it's not a problem to the current definition. This allows the courts the necessary latitude to deal with unusual situations, and here I do agree with Mr Monforton. Let's not regulate every situation so that we've got regulations 250 pages long. Let the courts take care of the unusual situations of economic loss, such as farmers, self-employed, students, any number of others who are unable to be taken care of without great regulation and confusion.

Should you wish to recognize pain and suffering in lesser situations, you could provide compensation on some arbitrary basis. I don't know what: length of time disabled, the type of injury? As Mr Monforton pointed out, every lawyer in every insurance company in Canada knows how much pain and suffering is worth in a certain case, based on pre-Bill 68 rulings of the court. If it's \$15,000 and that's what the court would do, make it part of the system. That's fine. It's priced, it's available and the company gets something that you can give a price to.

In that situation, make it subject to a smaller deductible, certainly not \$15,000; perhaps to avoid the small cases, a few thousand dollars. But without the necessity of implementing a lawsuit and with predictable payouts, the costs should be reasonable. I want to emphasize that. The point I'm trying to make here, and I know I haven't made it very well, is that before Bill 68, before the no-fault benefits, yes, everybody had the right to sue, but what was the total you could get? Whatever the other driver had. If he had \$1 million in coverage, that's all you could get. If he had \$200,000, that's all you could get. The insurance industry provided a benefit that you could buy yourself, get yourself. If you had \$1 million, you could get \$1 million, but you didn't get \$5 million, \$3 million or \$7 million.

No matter what the courts said, you only got what the other person purchased. Under Bill 68, you're getting most of your benefits payable. If you don't think the \$500,000

cap is enough, raise it, but don't make it unlimited. It is unfeasible. Leave that to the courts. They're the ones to decide the serious, permanent injuries, both of a physical and psychological nature.

A couple of the other issues that concern us are expanded regulations and cabinet powers. Every time government makes a new regulation, there's a cost attached for compliance. I don't know whether it's \$1 or \$1 million; I have no idea. I know that the OIC is talking about having to hire 100 new staff. I don't know; that's up to you people to decide.

In the case of the insurance industry, the OMPP has already created additional costs to pay for the Ontario Insurance Commission—it's paid for by the persons who have the insurance policies; it's assessed to the insurance companies—and substantial additional costs to many small companies whose requests for rate changes to the OIC must be accompanied by actuarial charts, and which will apparently be required to have an actuary on staff in future. These and other compliance costs must be passed on to the consumer. Additional regulations, particularly as complex as those being proposed, simply add to costs.

With regard to cabinet powers to make regulations, this process we're going through right now is good, but cabinet powers to make regulations with regard to a uniform rating system seem to be counter to the process we're involved in right now. We're all here because we want to see the best for the consumers. As an insurance broker, I don't want to be put in the situation of telling the drivers with good records, or a young female driver, "Your rate's going up because cabinet says so." I want them to be aware of what's happened in this process.

As an industry, we are committed to providing, explaining and servicing whatever product the public wants at an appropriate price. In the last several years, there has been more dialogue between brokers, companies and regulators than ever before. The cooperation level is much higher than most people would lead you to believe. This should be an initial forum for suggested changes, not a massive change in regulation now.

On an issue that I really must admit not being an expert on, because I'm not an actuary or a CA, the insurance industry profits and the ability to absorb part or all of the increase resulting from Bill 164 changes are of paramount importance. The public will not accept large rate increases. I assume that if we had a crystal ball today and knew that rates would increase substantially—let's say by \$150 per policy a year—if we knew that now for sure and we weren't arguing about that, this committee's deliberations would quickly be focused on how to reduce the costs.

I'm not an actuarial accountant, but the Ontario Insurance Commission has professionals on its staff to review the individual submissions of companies based on their actual experience. The OIC has received requests for increases in rates based on 1991 experience—that's now; that's not based on Bill 164 increases—and, in the view of its experts, rate increases are justified and have already been approved. They're not substantial—3%, 4% or 5%—but they have been approved, based on 1991's experience, for 1992 rates.

Obviously, if the Ontario Insurance Commission finds these rates can increase from current levels without Bill 164 costs, it follows that any further cost increase associated with Bill 164 will have to be passed on to the consumer.

Will companies apply part of their "record profits" to mitigate this increase? I don't think they can. I know a lot about insurance companies and finances and small business and big business. First, corporate taxes have to be paid, and 50% of that money went to the federal and provincial governments of Canada. Without that, you would have to find the money someplace else. You've got to tax somebody. It doesn't work very well.

This is in addition, in Ontario's case, to a 3% premium tax that the Liberals removed in Bill 68 and the NDP put back by regulation, so last year the coffers of Ontario profited in excess of \$120 million in premium tax. How much tax can the consumer take? He's paying it; we're a pass-through industry.

Second, a reasonable return must be paid to investors who are taking the risk of years of losses such as occurred from 1985 until 1990: five successive years of record losses. What happened to the record profits? Are the companies not entitled to some balance here? The OIC says, "You can't charge more next year because you lost money this year." What can you do? There has to be a fairness here. I'm not saying what that level is, but the level that the OIC has set has been met and rate increases have been allowed for this year.

Third, investment income accounts for all of 1990's profits and 80% of 1991's profits. Companies are now experiencing the same declining interest rates on those investments, just like you and me. If you happen to be a retired person and you're worried about your pension and it's all in investment moneys, you're not going to get 11% any more. You're not going to get 12%. You're going to get 6%. They have to plan on that too. So the record profits, if left alone, would be half as much in two or three years, because they're all investment income profits.

Fourth, claims reserves set up in 1991 may be inadequate in light of lengthening periods of disability and rising costs of medical and rehabilitation treatment. The Ontario government itself has found that OHIP cannot be paid at 100% for everything, yet the insurance companies must pay whatever is reasonable. The costs are going up.

I've talked to some company people and I know you'll be hearing from the Economical Mutual Insurance Co in Ottawa later. They have found that the Mercer estimates are way too low in their own absolute experience, and they'll show you those things on Monday. But the number of claimants on disability over one year in their company is twice as high as the Mercer estimates would indicate.

As brokers, I must emphasize, we welcome changes that enhance benefits or make it easier for our clients to understand and use the claims system, but we know that our clients' first concern is affordability. We do not believe that Bill 164 accomplishes this delicate balance between coverage improvements and affordability.

I thank you for the opportunity to make these comments to your committee.

The Chair: Okay, up first is Mr Ward and then Mr Lessard on the government side.

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Mr Brad Ward (Brantford): Thank you, gentlemen, for your presentation. It was thought provoking, I think, for every committee member here today. Are you a member of the Insurance Brokers Association of Ontario?

Mr Kelk: Yes, I am. Both Jerry and I are.

Mr Ward: You generally support that organization and association?

Mr Kelk: That's correct.

Mr Ward: On January 27 representatives from that association presented a brief to this committee and in that brief a statement was made by the representatives that says, "We agree that improvements are needed"—and referring to the OMPP—"and we note that Bill 164 takes some positive steps towards further protecting and enhancing the interests of our clients." Do you agree with that statement made by the representatives of the association?

Mr Kelk: Yes. It is a positive step. In fact some of my comments can be taken as a balance in the cost factor. I think in the presentation that I have read the Insurance Brokers Association of Ontario emphasizes again and again, "We are in favour of them, but the cost has to be there." The cost issue is the biggest factor.

Mr Ward: Would you agree that under Bill 164 over 97% of the full-time earners will receive some form of income replacement compared with 73% under the OMPP? That is a positive step, would you agree?

Mr Kelk: Yes, it is a positive step and I think it may be a little—

Mr Ward: That's fine. That's fine.

Interjection: Let him finish.

Mr Kelk: It may be a little different. I agree that it should be that way. The thing is of course that this is a second-loss coverage in that most high-income earners already have some form of disability insurance and, as such, perhaps should be given some rate decrease because they provide that coverage themselves.

Mr Ward: Would you agree under Bill 164 that it ensures all long-term disabled accident victims will have adequate benefits for life, whereas the OMPP does not? Is that a positive step?

Mr Kelk: Yes, it is positive. I think if you go further in that report, you'll see again that cost is an issue and the unlimited aspect of it does give everyone that, but yes, it is a positive step.

Mr Ward: A positive step?

Mr Kelk: If we can afford it.

Mr Ward: Yes. Under Bill 164, which ensures the seriously injured who are not at fault get recognition for pain and suffering—OMPP does not. Is that a positive step?

Mr Kelk: It is in the fact that the right to sue, and there should be some recognition of that, is offset in my personal opinion by the fact that the serious cases no longer have access to the courts.

Mr Ward: In reference to supplementary medical benefits and rehabilitation benefits, the association told us, "We are pleased to note the caps on these important coverages have been removed." Do you support that position?

Mr Kelk: I disagree with them because I don't think it's cost-effective. I support the position again if it's affordable, and they have stressed again and again in that presentation that while they agree with those and they're good, positive moves, affordability is a central issue to the consumer.

Mr Ward: Thank you. I'll turn it over to Mr Lessard.

Mr Wayne Lessard (Windsor-Walkerville): Thank you very much for your presentation. You've certainly reinforced the message that cost is an issue, and I don't have any disagreement with respect to that.

With respect to the current legislation, you say it's your experience that you're seeing more benefits being provided more quickly to accident victims. I'm going to suggest to you that there are some people who are left out by the current system as well. There are some losses that aren't being compensated for and part of the reason, I suggest, that the regulations we've presented are as complex as they are is we've tried to address that factor.

The Tories have suggested that perhaps people should have to buy extra insurance for economic loss beyond what Bill 164 might provide. Do you think people would buy that type of insurance and, if they would, how much do you think they might pay? You've given some specific examples from your studies about what people thought the limits were.

Mr Kelk: As a general rule, and I think this applies to most insurance coverages, if people know what the cost is and they're willing to pay additional—if you're talking about additional, probably no more than about \$50. But let me answer the crux of your question. Having two systems in place, you can buy this or you can't, if it was really affordable.

In other words, if it was \$20 benefit, then we as insurance brokers and I think most insurance professionals in Ontario, would add it as a matter of course. If it was expensive, nobody would buy it. If it's \$100 a year or more, our experience is that people even now don't buy it even though they've been offered it—the additional benefit for income replacement—because it costs money. It's expensive and they don't see the benefit.

In that sense, if the benefit is available—and I think it goes back perhaps to what Mr Kormos has always wanted. He wants all of the enhanced no-fault benefits plus all of the right to sue, no matter what. There has to be a balance in that affordability, in that issue. You can't do that whole thing with what is being proposed. In that issue, you're proposing exactly to do that, to have an unlimited right to sue and unlimited accident benefits on both sides, just as that scenario is difficult to cost with the way it is now, if you add that other benefit back in.

Sure, we can cost it as \$8 million of protection for economic loss. That's easy because we know how many are catastrophically injured. It's the unlimited aspect that

causes problems, and the cost thing I have no idea because I'm not an actuary, but if it's available and at reasonable cost, I think you'll end up being of benefit on all policies. If it's an expensive benefit, people will not buy it.

Mr Lessard: Okay.

The Chair: I have to go on to Mr Mancini, and Mr Callahan had his hand up also. You've got five minutes.

Mr Mancini: I appreciate the presentation made by the insurance brokers of Windsor and Essex county. You are the people who deal face to face with the consumers. Is that not correct?

Mr Kelk: I'd say so, yes.

Mr Mancini: You are the people who have to hand people their insurance bills and say, "I'm sorry, but Bill 164 has driven up the cost of your insurance." You're the people who are going to have to do that. When Bill 164 is passed by the NDP members and insurance rates go up, when people who have not had accidents, people who have been good drivers ask you why their insurance rates have gone up, what are you going to tell them?

Mr Kelk: Basically we have to tell them that's the law and that's the cost of the product and that while we are in favour of enhanced benefits, we did bring to the attention of the government and the committee the cost issue and that we were representing their best interests in a balanced product.

Mr Mancini: Mr Lessard wants to gloss over what this is going to do to consumers. Let me tell the committee and everyone who's listening what Bill 164 means to the average household consumer living here in Windsor and Essex county. It means an increase in automobile insurance rates of \$208. That's what it means. Have you seen figures to substantiate that increase?

Mr Kelk: Yes, I have.

Mr Mancini: Are you aware what this legislation is going to do to senior citizens in this province and are you aware of the United Senior Citizens of Ontario organization?

Mr Kelk: I've seen their presentation, yes.

Mr Mancini: Are you aware that the United Senior Citizens of Ontario, representing 300,000 senior citizens, has said that regardless of who is right or what the final outcome will be, rate increases of 4% to 20% will take place and that seniors can expect further rate increases higher than that? Are you aware of those statements?

Mr Kelk: Yes, I am. I think those come from two issues. Again we reiterate, every person who's studied this knows there are more benefits, and you know you can't get something for nothing, so the cost will go up. How much is a serious issue.

But the second issue of the seniors is going to be addressed also in the cabinet regulations. If the cabinet can do a plan which eliminates all discounts and says everybody gets the same if they're driving 10 years or more, then the seniors are going to pay more because they generally are in receipt of discounts because of long-term good driving and because seniors represent a lower risk.

Mr Mancini: Would you agree with me that most women earn less than most men?

Mr Kelk: Absolutely.

Mr Mancini: Are you aware of statistics that show that under Bill 164 female drivers over the age of 21 and 24 years of age will have substantial rate increases?

Mr Kelk: I understand that's correct.

Mr Mancini: Do you feel that the cost of Bill 164 to the consumer is worth some of the enhanced benefits that the NDP is trying to promote?

Mr Kelk: Not in my opinion, no.

Mr Mancini: Thank you very much.

The Chair: Mr Callahan.

Mr Callahan: Actually, this was for the other gentleman who was here, but I think I'd still like to put it on the record.

Mr Lessard: What do you think? Would you like to give up your space?

Mr Callahan: We ran out of time. I think the government members should listen. Maybe they'll learn something.

I inquired as to the facilities available for head injury rehabilitation in this province outside the room. He indicated to me it's nil. If that's the case, then the NDP's proposal in terms of taking away the right to sue for economic advantage, as well as the \$100 per day that's allowed for a person who is brain-damaged, of course creates a situation of, where are we going to send them? Is the NDP going to enlarge the already outrageous deficit in order to provide these facilities, or are we going to send them across the border like we did with drug and alcohol problems?

The additional factor is that with the \$15,000 deductible, there isn't going to be a county or town lawyer who is going to be able to deal with a client. It's going to become a very small-knit group, because as was explained to you by Mr Monforton, trying to figure out what fits into that \$15,000 category is going to take a great deal of expertise and perhaps a few court decisions to determine that.

The net result could be that some county lawyers might decide to take on a case, get to court and find that they win \$14,999, and their client will be ecstatic, but in essence that client has won nothing, except to pay the costs of his own lawyer as well as the costs of the opposition's lawyer. So that's an absolutely looney tunes approach to what the Premier promised, which was public auto insurance, and he sort of got a foot on either side of the bridge and is not accomplishing either one of those, so I'm putting him on the record, Mr Chairman.

The Chair: I'm sorry, Mr Callahan, I didn't hear a question.

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Mr Callahan: Mr Chairman, you're supposed to be independent when I speak about the Premier's promises and his failure to keep them. You should not be coming into the fray.

The Chair: I am independent. The time has run out. I'm sorry. We'll go on to Mr Tilson.

Mr Tilson: I'd like to talk a little bit about the comment on cost and have you clarify some of the remarks you made. There's no question that all of the insurance companies, including yourselves, the brokers, the adjusters, everyone in the insurance industry says that rates are going up. Depending on who you talk to, is it 4%, is it 20%? The insurance industry believes it is closer to 20% that insurance premiums are going to go up.

That can be challenged, I suppose, just like Mercer can be challenged. But the fact is that they're going up over and above the normal increases that rates would normally have. So one wonders about the merit of all that. At the same time, emphasis has been put on what the cost is going to be to educate the brokers, educate the claims people, educate the companies, educate the lawyers, educate the doctors; of course, the innocent accident victim has been left out.

One of the major complaints about the previous system or systems, which I'm not necessarily so sure I agree with, is the tremendous cost of advocacy. This government has taken away the advocate of the innocent accident victim. There's no advocate. I'm getting to my point finally. I believe that the insurance industry is going to be put under so much pressure as to the cost of operating its businesses that rates are going to go up.

The minister has said, "Rates are not going up." He said that numerous times. If rates aren't going up, and yet the industry says they're going up by 20%, all right, so they can freeze it like the Liberals did. I suppose they can make some funny cabinet regulation, as the act's going to allow them to do. You people are going to become more and more difficult to deal with, because you have to survive.

My question again is getting back to the theme that was being developed by some of the earlier delegations. What is going to happen to the innocent accident victims, when you people are being forced to be not as nice as perhaps you have been in the past?

Mr Kelk: I must agree with your comments, but I must say, first of all, that Mr Charlton and Mr Rae are both aware that rates are going up and that the Ontario Insurance Commission has in fact already approved rate increases for companies.

Mr Callahan: That's not what they say.

Mr Kelk: I know. Mr Rae and Mr Charlton would then talk about the profits, and I addressed that issue. Those profits are gone in taxes and in other things. It's a situation where it's nice to talk about one year in isolation, but let's talk about the whole situation.

Mr Tilson: Wait a minute. I'm not talking about the rates from day to day. Let's talk about the projected 20% that this government's going to impose on this province.

Mr Kelk: Again, I am not an actuary, but that 20% estimate, by most estimates, is a combination of a slight increase because of current underfunding. The cost attributed to Bill 164, this is where it's not as wide apart as you think, because Mercer says 4.5% and Wyatt says 12.5%. The other part of that 20% increase is the fact that rates do

have to go up even now to fund the lengthening disability periods, the lengthening benefits that consumers are receiving. So the total appears to be around 20% for the total package of rate increases in 1992 if this bill is passed; if it isn't, then there will still be a rate increase of about 4%.

Mr Callahan: The Premier knows that, does he?

Mr Tilson: The difficulty I have is with the whole issue of rates, which is why this whole mess got started in the first place.

Mr Kelk: That's correct. That's exactly right.

Mr Tilson: The OMPP said rates were going to go down.

Mr Kelk: Rates did go down. Rates went down in 1991.

Mr Tilson: I suppose the innocent consumer is going to say: "What in the world's going on? Who do you believe in this world?" I'm not suggesting that you're not telling the truth. I'm just saying that there's a lot of strange stuff going on here.

Mr Mancini: It's the NDP that didn't tell the truth.

Mr Tilson: I have one more question. How much time do I have?

The Chair: About 30 seconds.

Mr Tilson: I'll give it to Mr Kormos.

Mr Kormos: Gentlemen, it's nice to be here with you. You know what's really strange? This committee sat last week in Toronto; it's sitting around the province this week hearing from people. No more than a number I can count on one hand came forward saying there might be some good things here. Nobody supports it; almost everybody

opposes this legislation. They didn't receive a single letter, a single note, a single phone call from anybody asking them to jack up premiums and reduce benefits. Who in the Lord's name is the government catering to with this wacko, made-in-Bucharest bill? Do you have any idea? Surely you people didn't call on the government to introduce higher premiums and lower benefits, did you?

Mr Kelk: No. I emphasize that we would love to have unlimited benefits, but we have to answer to the consumers and we have to give them that balance. No, our consumers are not asking for increased benefits. There are some cracks that have to be filled, but this is like tearing down a wall, instead of just filling the cracks.

Mr Kormos: This is a victory of the guilty over the innocent.

The Chair: Mr Kormos, you're out of time.

Mr Kormos: It's bad legislation.

The Chair: I'd like to thank you for appearing before this committee.

Mr Kelk: Thank you for the opportunity.

The Chair: We have a cancellation for 11:30, and the clerk would like to make some announcements here also.

Clerk Pro Tem (Mr Franco Carrozza): This concerns the accommodations here. You have until 3 o'clock to remove your belongings. After that, bring your luggage down to the River Run Bar after 3 pm. It's on the first floor by the front door.

The Chair: Okay, we're going to be recessed until 2 o'clock.

The committee recessed at 1136.

AFTERNOON SITTING

The committee resumed at 1401.

The Chair: Good afternoon. This is the standing committee on finance and economic affairs, Bill 164, An Act to amend the Insurance Act and certain other Acts in respect of Automobile Insurance and other Insurance Matters.

WINDSOR AND ESSEX COUNTY
INSURANCE BROKERS ASSOCIATION

The Chair: I'd like to welcome the Windsor and Essex County Insurance Brokers Association. Gentlemen, if you don't mind identifying yourselves for the purposes of Hansard, you may begin. We have until 2:30. In that period of time, at the very end of your presentation, you can leave time for questions from the committee members. You may begin.

Mr Stephen Savage: Mr Chairman, members of the legislative committee, ladies and gentlemen, for the record, my name is Stephen Savage. I'm the president of the Windsor and Essex County Insurance Brokers Association. I'm also representing here Kent and Lambton counties and the Bruce-Grey association. With me today is John Comisso, the past president of the association, and Mr Bruce MacDonald. We are insurance brokers, and in this capacity we wish to welcome you and your committee to a beautiful, sunny day here in Windsor. We want to thank you for the opportunity to express our views regarding Bill 164.

As insurance brokers, our first and foremost concern is for our customers. From a practical point of view, we are dealing daily with their concerns and questions. We advise them regarding product availability, policy wordings and price. We assist them with their buying decisions and help them through the claims process. We are in the best position to know what our customers want, what their concerns are and how legislation may affect them. We are here today to try and provide you with some local feedback regarding this proposed legislation, its strengths and its weaknesses.

In our view, the Ontario insurance consumer is seeking a product that is straightforward and easy to understand and, in the event of a claim, that pays benefits or repairs their vehicles quickly and efficiently and does not involve excessive paperwork, costly delays or the time and expense of court proceedings.

Since the introduction of the Ontario motorist protection plan in June 1990, our customers have experienced a stabilization in the marketplace, premiums have reduced, claims are settled more quickly and efficiently and income replacement benefits are delivered within 10 days of the filing of the appropriate paperwork.

Our sense is that the system seems to be working well. In our office, we've experienced very, very few complaints regarding the new system. This sentiment is common in most brokerage offices. We were therefore surprised that Bill 164 was proposed, with some significant changes from the existing legislation. We are not suggesting that a continuing review of the legislation should not be undertaken; our industry regularly consults with and makes recommendations

to the Ontario Insurance Commission. However, we are concerned that some of the proposed changes in the legislation may not be in our customers' best interests.

Our first concern is for the areas that the bill does not address. We believe that in order to control the costs of auto insurance, you must first address the problem. Auto insurance premiums are driven by the cost of claims: the more claims, the higher the cost. This bill does not deal in any way with this issue. Instead, its proposals will add to the cost of the auto insurance product. The government seems to be addressing a problem that the general public has not expressed. It's a bit like the physician providing a patient with another pill for his pain without removing the nail from his foot. The Road Ahead: Ontario's Strategy for Automobile Insurance Reform did place, and we believe rightfully so, a considerable emphasis on safer roads and accident reduction.

Our industry, in the spring of 1992, recommended that graduated licensing should apply to all novice drivers. Statistics from countries that have introduced this plan have indicated a dramatic decrease in fatalities. For example, in New Zealand prior to the implementation of graduated licensing in 1987, fatalities among 15- to 17-year-olds were increasing. The new system halted the trend, and within two years traffic deaths and injuries for this age group dropped approximately 40%. The strengthening of driver test standards, hazard perception testing, compulsory driver education training programs, night curfews and zero blood alcohol content are a number of additional recommendations to address the real problem in auto insurance. Yet there seems to be a reluctance on behalf of the government to take legislative action. We do note, however, that the provinces of British Columbia and Nova Scotia have recently announced that they will be taking action to implement these kinds of road safety plans.

The road safety agency created under Bill 39—which, by the way, has not received second reading—is focused on the promotion of safer driving through licensing, road safety research and education. We believe this should be the priority of the government. We would strongly encourage the government to focus its energies in this area of accident reduction and, ultimately, cost control, instead of proceeding with Bill 164.

As brokers who deal with the public daily, we are painfully aware of our customers' concerns regarding the cost of auto insurance. Times are tough for many, and it becomes more obvious as we see clients stretch their payments, delete coverages or simply drive vehicles without insurance. We know that cost is their primary concern. Our concern is that the introduction of this legislation, with the indexation of benefits, the removal of medical and rehabilitation caps and increased access to the courts, will increase the cost of the product, and eventually this increased cost will be borne by the consumer.

There have been several actuarial reports published to date regarding the impact of Bill 164, and although they may differ in the methodology used to develop their results,

they all have reached the same conclusion: Bill 164 will increase the cost of the auto insurance product.

It's not our intention to review with you in detail the specific contents of Bill 164. However, we feel it's important to comment on several areas.

Complexity: We referred earlier in our submission to the consumers and their need to have a straightforward product that is easy to understand. As we worked through the document, we became more and more concerned with its complexity. The 70-odd pages are very detailed and will, in many cases, require interpretation. We do not know the full impact of these new proposals or the additional costs associated with their implementation and regulation. It has been suggested by Don Scott of the Ontario Insurance Commission that it will require 100 additional staff to implement the benefit package of Bill 164 and \$5 million more a year.

Our customers are just now becoming familiar with the Ontario motorist protection plan. We are concerned that additional costs and confusion will not be in their best interests. The clients who do not understand what they are buying, what they are entitled to or when it's available are impossible to satisfy. This dissatisfaction will be levelled at the government as it proceeds with the implementation and passing of this legislation.

Tort: The introduction of the right to sue with a deductible may return us to the problem of the 1980s, when higher court awards forced auto insurance premiums upward. We are concerned that the \$15,000 deductible will either prohibit our customers from taking an action or cause the courts to inflate awards to compensate for the deductible amount.

Senior citizens: The proposals in the bill will increase the cost of auto insurance, yet there is little in the bill that will benefit senior citizens. Since many seniors are not employed and live on a fixed income, they will not benefit from the higher weekly accident benefits, yet they will be forced to pay the additional costs associated with these benefits.

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Income replacement calculations: We believe that our clients will be disadvantaged by the new formula to calculate income replacement. It seems to us that if the average income for a family with two children is \$45,000 and the after-tax income is \$33,000, the new 90% of net income calculation will entitle the client to \$29,700 annually. Under the existing Ontario motorist protection plan, the same client would be entitled to 80% of the gross income, or \$36,000 annually.

Economic loss: The right to sue for economic loss has been replaced by a no-fault benefit capped at \$1,000 weekly. We are concerned that the clients whose present or future income potential exceeds this threshold are disadvantaged by the proposed changes. Take, for example, a doctor in a specialty area who is in her last year of residency. Her annual income may be \$40,000. The following year, her income could jump to \$200,000. Under the proposed plan, she would remain uncompensated for her loss of future income.

Let's take a less extreme example. A young insurance broker two years in the business is building his client base. His income is \$30,000. Over the next few years he expects to double his income as he increases his client base. Unfortunately, the proposed legislation does not allow him to sue for this future economic loss, thus placing him and his family at a distinct disadvantage.

Cabinet's power: Bill 164 gives cabinet the power to implement changes to the insurance classification plan and rating method. This bypasses the requirement for parliamentary debate or for public discussion like the one we're having here today. We are unsure how this is in the public interest or why it was introduced to the bill in the first place. We believe the Ontario Insurance Commission has the insurance expertise and that its present consultative approach with the insurance industry provides invaluable assistance in creating and maintaining the insurance system.

The government has indicated that it intends to homogenize or simplify the classification plan. We are concerned that these decisions made by cabinet without public scrutiny or input may result in substantially higher premiums for young female drivers or senior citizens.

In conclusion, we are pleased to hear the government's announcement regarding the task force on rehabilitation and long-term care benefits for those injured in automobile accidents. We think that this type of consultative approach for changes to the Ontario motorist protection plan makes good sense.

Many groups have expressed their opposition to the bill: Mothers Against Drunk Driving, The United Senior Citizens of Ontario, the Ontario Chamber of Commerce, the Canadian Paraplegic Association, the Toronto Taxicab Owners and Operators Association, the Insurance Bureau of Canada. We here in Windsor would add our name to the long list of organizations opposed to the bill in its present form. We have also been asked to include our colleagues the Hamilton insurance brokers, who were not given the opportunity to appear before this committee.

We, the insurance brokers, are on the front line. We act as the liaison between the companies and the public. We have heard few complaints about the Ontario motorist protection plan and its operation. If we hear so few complaints, we are certain that the Ontario Insurance Commission is hearing even fewer. The deputy minister, Blair Tully, indicated that the government did not even take the time to survey the public to determine if the bill is necessary or wanted. We wonder why this plan is being proposed at all. We believe it's the wrong plan at the wrong time.

Thank you for the opportunity to share our thoughts today. Mr Comisso, Mr MacDonald and myself are here to answer any of your questions.

The Chair: Mr Harnick, five minutes.

Mr Harnick: I notice that in your brief you state a concern you have that the \$15,000 deductible would possibly prohibit your customers from taking an action. I want some sense from you of where this line or threshold or deductible should be. I appreciate that it's pretty difficult for anybody to be precise, but would you agree with me

that when one of your customers suffers an injury that could be considered serious, he should have the right to make a claim?

Mr Savage: Sure.

Mr Harnick: That's pretty basic, I would think, and I would think that in spite of the fact that you haven't heard a great deal of criticism about the OMPP, the one thing you have heard is that some of your customers have probably been involved in accidents and have found out after the fact that the right to claim has been taken away from them. Has that been your experience?

Mr John Comisso: If I may, Mr Harnick, if we assume what you're saying to be true, unfortunately the answer I'm giving you is that we're not hearing from those particular clients or customers that they're concerned or that they're upset that the existing policy does not give the right to sue. It doesn't necessarily follow automatically from your premise that there are complaints. We just don't hear them. There are three brokers here representing thousands of clients, and we're not hearing those complaints.

Mr Harnick: What I'm specifically interested in is the experience of those who have suffered accidents and have suffered serious injuries. You'll acknowledge that under the OMPP only 3% are getting through the threshold. There are 97% who aren't and, of that 97%, there are an awful lot of serious injuries. I suspect that among you three, at least some of your customers might unfortunately have been involved in an accident in which they've suffered some kind of serious injury. What's happening to these people?

Mr Bruce MacDonald: If I could make a comment, it's my experience that most of them, by and large, when they have a \$600-a-week coverage, it's getting into their hands very quickly and they're pleasantly surprised at that; it's much better than the previous accident benefits schedule, and it means they don't have to wait around for a year or two or three for the litigation of the court to decide (a) if they were at fault, and (b) how much they're going to get. By and large, initially at least, they're much happier.

Mr Harnick: You see, what concerns me and what's confusing people—I don't take any objection to the fact that people who are entitled to accident benefits receive accident benefits that are reasonable, but what I really want to know from you is, in addition to the receipt of those accident benefits, if somebody suffers a serious personal injury, shouldn't they be entitled to make a claim for their pain, suffering and loss of enjoyment of life?

Mr MacDonald: Yes, I agree with that. I guess with the current threshold it's serious and permanent, and while I suppose that exact threshold is yet to be determined—there haven't been that many cases that have tested it—they still have the right to sue.

Mr Harnick: That's right, and the one thing I am concerned about is that people seem to be saying that the pain and suffering aspect is all part and parcel of the accident benefits aspect, and in reality they're two different things. They may go hand in hand, but you should get your accident benefits on a timely basis; you should get your rehab

on a timely basis, but that doesn't detract from your right to get your pain and suffering and loss of enjoyment of life claim in addition to your accident benefits. Correct? One doesn't negate the other, if the injury's serious.

Mr MacDonald: I agree, and actually we as brokers support pain and suffering, and psychological trauma and those things, in some way working their way in if the injury is serious and permanent.

The Chair: Thank you. Mr Lessard.

Mr Lessard: I want to thank you, gentlemen, for taking the time out of your busy schedule to appear before the committee today. I wanted to know whether you were members of the Insurance Brokers Association of Ontario.

Mr MacDonald: Yes, I think three quarters of the brokers in the province are members of the trade association.

Mr Lessard: Are you aware of the presentation they made to the committee last week?

Mr Savage: Sure.

Mr Lessard: In that brief, it says, "We agree that some improvements are needed and we note that Bill 164 takes some positive steps towards further protecting and enhancing the interests of our clients." Would you agree with that statement?

The Chair: Wait a minute. Did you get that, Hansard?

The mike didn't go on. Would you please answer again so we can pick it up?

Mr Savage: Yes. In the affirmative.

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Mr Lessard: In the bottom line of your presentation you say you wonder why the plan is being proposed at all and that it's the wrong plan at the wrong time, but that seems to contradict the submission that's made by the association.

Mr MacDonald: I think the position that Mr Savage is trying to put forward today is that we as brokers do feel that in any system there's always room for reforms that improve the current system. If it can be done in an affordable manner, we're quite in favour of that.

Our concern, from our customers' point of view, is that many of them are crying the blues about their current premiums. There are tremendous economic problems in many areas of the province. Some are not working, some are worried about being laid off, and they worry very much about their premiums going up. If we can find a way to fix some of the things that need to be tidied up—psychological trauma, pain and suffering or whatever—and still do it in an economic way that makes sense, fine, but the bottom line is that it's got to be affordable to consumers.

Mr Comisso: If I may, Mr Lessard, bring it down to a Windsor level: If an individual is looking at buying a Chrysler minivan and you ask him whether he would like the standard Chrysler minivan or the one with all the bells and whistles and options that are available to it, I don't think there's very much deliberation that has to go on. But when it gets down to the bottom line, what that individual has to pay for the Chrysler minivan and what he can afford may be two different things. While we might be in favour

that perhaps there may be some enhancements included in this bill which are nice to have, it's a question of who's going to pay for them.

The Chair: Mr Ward.

Mr Ward: I'm just referring to the brief, gentlemen, so I can get an understanding. I think you mentioned that you do support the association, and it did give a presentation. Some of their suggested positive aspects of Bill 164 obviously deal with the supplementary medical benefits and the rehab. They say, "We are pleased to know that the caps of these important coverages have been removed." I'm assuming you agree that this was a positive amendment to Bill 68, in the sense that the caps are no longer there. I believe that was a concern of brokers throughout Ontario, was it not?

Mr MacDonald: I have read the report you're referring to several times, and yes, we do agree that perhaps it's a positive thing. I do think the same report refers several times to the issue of affordability in many areas, and the balance is that you have to strike the balance that works.

Mr Ward: So you also support the creation of the task force, which will look at long-term costs and ensure that the costs are contained, to a degree, where the driving public obviously can afford that particular benefit. You support the creation of that task force as well, do you not?

Mr MacDonald: Yes, both briefs do.

Mr Ward: Mr Chairman, how much more time do I have?

The Chair: You have one minute.

Mr Ward: Would you not agree, looking at the enhanced benefits, that Bill 164 will offer some type of income replacement for 97% of full-time earners compared with 73% under the OMPP, and that it ensures that the seriously injured who are not at fault get recognition for pain and suffering, which obviously is not in the OMPP? Those two in particular are positive as well, again recognizing that there are no free lunches and every enhanced benefit has a cost to it, but would you not agree that that's a positive as far as Bill 164?

Mr MacDonald: It's positive in theory. Under the current system the standard is \$600 and you can buy it up. I as a broker and I think my colleagues here would join with me in saying that we've offered it to many hundreds of clients and hardly any of them buy it. The problem is that when you force it at \$1,000, many people who will never ever be able to claim from it have to pay the freight: the seniors, the students or whoever.

Mr Mancini: I want to thank the association for its brief this afternoon. Gentlemen, in your brief you asked a very straightforward question that the NDP has been refusing to answer since the first day of these hearings. You asked, "Why was this bill introduced?" I think I have the answer for you. Do you know who Mel Swart is, the former NDP MPP for Welland-Thorold?

Mr MacDonald: I understand he spoke to you last week.

Mr Mancini: Can I tell you—

Interjections.

Mr Mancini: Can you control the parliamentary assistant, please?

Interjections.

Mr Mancini: Mr Swart said—and I know this hurts—"Bill 164 is before the Legislature only because after the NDP leader and members made so much fuss in opposition they couldn't be seen as doing nothing now." "They couldn't be seen as doing nothing now." That's what Mel Swart had to say in answer to your straightforward question as to why this bill is before you.

You are supporters of the road safety program?

Mr MacDonald: Definitely.

Mr Mancini: Are you aware that I and other people who have served in the role of Transportation critic for the opposition parties have more or less given our support for the road safety agency program? Are you aware of that?

Mr MacDonald: Yes.

Mr Mancini: And there is absolutely no reason for the government not to move forward with the road safety program, because we're prepared to join with them in passing this important program.

Are you aware that in the Mercer report, the government's New York consultants, when they came up with their 4.5% increase, actually factored in a road safety program that wasn't even in place? Are you aware of that?

Mr MacDonald: I think I read that somewhere, yes.

Mr Mancini: And are you aware that if they did not factor in that road safety program which does not exist, the government consultants would come up with a rate increase of not 4.5% but almost 10%? Are you aware of that?

Mr MacDonald: Yes.

Mr Mancini: Those are the facts. Are you aware that farmers, particularly farmers in Essex county who are in grave financial distress, will have to pay more to insure their vehicles? Do you insure farmers?

Mr MacDonald: Yes.

Mr Mancini: Do you think farmers are flush with money these days?

Mr MacDonald: Most of them, no.

Mr Mancini: Do you think they can afford \$200 per vehicle more just for Bill 164?

Mr MacDonald: No, I do not.

Mr Mancini: Are you aware that senior citizens are going to be hammered by this legislation?

Mr MacDonald: We are.

Mr Mancini: Are you aware that after the government eliminates the age-of-driver rating factor, senior citizens in Windsor—and I want to highlight this to Mr Lessard because he failed to point it out—may face a rate increase of up to 23%?

Mr MacDonald: I don't know the exact percentage, but we're expecting seniors to get increases, yes.

Mr Callahan: I'm sure you'll hear about it.

Mr Mancini: You're expecting seniors to pay more. Do you think seniors get any benefits out of Bill 164 in exchange for these higher rates, sir?

Mr MacDonald: Not as many as other groups, no.

Mr Mancini: Are you aware that the Toronto taxi association made a presentation to this committee, and are you aware that it stated before this committee that its rates were lowered because of the Ontario motorist protection plan? Are you aware of that?

Mr Savage: Yes.

Mr Mancini: Is the taxicab business in Windsor flush with business?

Mr Savage: Certainly not.

Mr Mancini: Do you think taxi drivers, people who make that kind of money, taxi owners and people who use the taxi services are able to pay more for these services in exchange for all these grand benefits that the NDP members say we're going to get for Bill 164? Do you think the taxicab industry can pay more?

Mr Savage: No.

Mr Mancini: Would you agree with me that consumers are fed up and have had it with tax increases, with rate increases, and with everybody sticking their hands in their pocketbooks?

Mr Savage: Couldn't agree more.

Mr Mancini: Thank you. Mr Callahan, you have a minute.

Mr Callahan: I find it interesting that all the things my colleague has said, it seems to me, say that the NDP is simply bringing this in rather than public auto insurance, which is what it promised, that this is sort of a halfway measure. I think that's a lie, a lie that's being imposed on the people of Ontario, and I think people in Ontario are looking for politicians who tell the truth.

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Mr Owens: Who's that? Is that you?

Mr Callahan: The parliamentary assistant says, "Who's that?" It's certainly not the parliamentary assistant or his party.

But I'd like to inquire. This morning we had a fellow, a lawyer actually, who was talking about people who had brain injuries. As you're aware—

The Chair: I'm sorry, Mr Callahan, your time is up. You only had one minute.

Mr Mancini: He was interrupted by the parliamentary assistant.

Mr Callahan: That's fine.

The Chair: Okay? Gentlemen, I'd like to thank you for coming before this committee.

You had a short question, Mr Mancini, the one day with a 10-second question. Didn't you get that one out and get an answer right back? You don't remember?

Mr Mancini: I supported Mr Callahan in asking a question.

Mr Callahan: I appreciate that. That's right.

NIGEL GILBY

The Chair: The next group to come forward is Mr Gilby. This will be for 20 minutes. You may begin.

Mr Nigel Gilby: For those of you who do not know me, my name is Nigel Gilby. I am a lawyer. I am also the chairperson of Dale Services, which is a transitional living centre for brain-injured people, and a board member of the Canadian Paraplegic Association. I am and have been for the past four years the chairperson of FAIR for regions outside of Toronto and have been active in fighting for the past four years for innocent accident victims in this province.

I'd like to say that after fighting for accident victims for the past four years, having presented accident victims before the hearings on the present OMPP, having met with the minister, Brian Charlton, personally with a number of accident victims and many other government members, including Mr David Winninger from London, I come here with no illusion of fairness to innocent accident victims. That illusion was shattered when this government failed to keep its pre-election promises to accident victims and the millions of voters like myself who voted for Bob Rae and his party because of those promises.

Instead of keeping its promises, this government has come up with a system that is universally condemned by insurers, innocent accident victims, rehabilitation specialists, members of its own caucus and its own party. I suppose that if they want to congratulate themselves for something, they have been able to find a common bond between insurers and innocent accident victims.

Having said that, I hope there is still some integrity left in this government to at least recognize the inherent problems and change them. Ten minutes is not enough time to deal with all of those problems, so I'm going to deal with only a few of the problems that I see with this legislation.

One of the biggest problems is that it is complex. If the members of this committee have read this legislation, and if they are honest with themselves, I would bet that to a man and woman they couldn't stand up and say that they understand this legislation and all that it entails or means. It is simply too complex. As a person trained to interpret legislation, whose job day in and day out is to interpret statutes, I can tell you it's a very complex piece of legislation. Imagine what the poor, untrained, innocent accident victim is going to have to deal with once this legislation is implemented.

You have to understand that individuals are going to be going up against insurance companies, and insurance companies are going to have experts, people who are well trained, who are going to represent them in mediations, arbitrations and court proceedings. There is nothing in this legislation that I've been able to see that provides for any legal counselling on the part of innocent accident victims.

When you look at section 33, it talks about financial counselling, about rehab counselling, about all sorts of counselling, but there is nothing in there for legal counselling. It may sound self-serving, but legal counselling, in my opinion, is just as important as the other counselling, because it's only through interpretation of the statute that somebody is going to understand what rights he has, what benefits he's entitled to, what rehabilitation he's entitled to.

This piece of legislation is absolutely useless if people don't know what it means and don't know how to use it. In my opinion, you have to, provide for that. All you have to do in section 33 is add to the other counselling "legal counselling." You have to provide for that. You're betraying innocent accident victims if you don't.

The other thing I'd like to talk about is death benefits. I have provided a handout—I don't know whether everybody has that or not; it's clear-faced—and I want to show you some examples. If you turn to the first tab, on fatalities, these are actuarial calculations. What they do is show the existing legislation, which is really pre-OMPP as well, because of course you have the right to sue in a fatality under the present legislation, as you did before it, and the proposed Bill 164.

I have taken people earning not a lot of income. The first example: If you take a married person, male or female, aged 30, who has a gross income of \$25,000, you will see that under the present legislation that person would receive benefits of \$435,000 by way of having a tort claim. Under Bill 164, that same person and his family are going to get \$93,000. They've paid \$340,000 for this piece of legislation.

Example 2: A married male or female, aged 40, income of \$50,000—we're not talking large incomes; these are the blue-collar, union workers who are making that kind of money, who have supported this government for years—\$623,000 with the right to sue; \$149,000 is all the family's going to get under Bill 164. They're getting ripped off for \$450,000.

The last example: A male or female, aged 55, with an income of \$35,000; \$396,000 if they have the right to sue, \$97,000 under this legislation. It's cost that family \$300,000.

What's even more abhorrent is that you do not have any exclusion for people who drink and drive or are impaired under part X. So what you've got is a drunk driver coming through a stop sign who kills himself and another person, and the drunk driver is going to get the same or potentially better benefits for his family than the family of the innocent accident victim. What this legislation is doing is saying to the families of people who are killed by drunk drivers, "Not only are we going to take away your husbands and take away your income, we're going to pay it to the guy who killed your husband."

Mr Kormos: Drunks win and victims lose.

Mr Gilby: Exactly. Let's talk about the \$15,000 deductible. I have attached, at the next tab on damages, some examples from Goldsmith, and as my friend Mr Winnerger will be able to tell you, as a lawyer, that is an authoritative text that deals with personal injury claims for pain and suffering damages. In fact, it is put out and used by the insurers throughout Canada.

We are not talking about damages in this country that are massive, like you read about in the United States. The first example: It's a 1988 case. The person had an amputation of his leg. They get \$100,000 for pain and suffering. Anybody here going to say he'll give up his leg for \$100,000? Yet you're going to penalize them, not only on

the basis that it's not a huge award but by taking \$15,000 away from them.

Look at the second example, A 14-year-old who had a laceration on her right forehead of two to three inches, permanent scarring. She had a knee injury that prevented her from participating at school in team activities and is going to be dealing with that problem for the rest of her life: \$16,000. You're going to give her \$1,000. No action is going to be pursued for \$1,000. It absolutely would never be warranted.

The case of Giannone is a six-year-old girl who had a compound fracture of her arm. It was cast improperly. The result was she got gangrene. She had to have her arm amputated. A six-year-old girl under our present damages gets \$125,000. You're going to take \$15,000 away from that little girl.

The construction worker, aged 46, had a fracture of his left femur, shoulder injury, fractured ribs, an injury to his lower back. It required the insertion and removal of a rod, and it required a bone graft. The court found that he would be unable to return to his old job, which was one requiring heavy labour. The court awarded him for pain and suffering \$15,000. You're going to take \$15,000 away from him and I can go on and on.

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If you look at the example of Le and Tang, 1992—I mean, I'm not picking cases from the 1960s and 1970s here. We're talking current cases. A 23-year-old seasonal fisherman suffered a broken nose, a fracture of his left zygoma, which is the bone in the eye, a cut on the left temple and had a closed head injury and a perforation of the small bowel. The court found that he would have ongoing pain, difficulty breathing, blurred vision in his left eye, pain in the area of the cheekbone and left temple, sharp pain in the stomach: \$22,000. You're going to give that person \$7,000. I mean, you really should be ashamed of it.

I want to also talk about one last thing, and that deals with the idea of first-party insurance. If you're going to bring this legislation in, at least provide for a specific stated piece of legislation that says individuals can buy—whether you want to call it an endorsement or a rider on the policy—additional coverage to cover those economic losses they are going to suffer. Insurers will price it out on the basis that they've always priced it out and that is to make some profit on it. Individuals will be able to buy it and will be able to at least have some additional protection. I've also provided you with a paper from the professor that deals with a number of examples of people who are going to be severely disadvantaged.

My friends before me talked about examples, such as the person who is in medical school and about to graduate, the person who is starting off in the brokerage business, the person who is just starting off in farming. This legislation freezes life. It takes a picture of life backwards for one year and says that's the way things were always going to be and always will be and that's how we'll compensate. Well, that's not reality because people's incomes go up, people's incomes go down and people progress through certain stages. A person at 55 is in a far different situation

in terms of income than a person at 23 or 24 just starting off, and you're penalizing them.

The paper I have provided to you is the paper by Douglas Welland, so if I can recap before any questions I would ask that you provide for the right to legal counsel. It has to be there. Without it people are going to be victimized once again. If you're going to leave this legislation, you've got to do something with the fatality section. It's a farce, really it is, when you think about any member and the income that you earn if you were killed and what your family would get. You have to do something about the \$15,000 deductible. Given what else you're taking away from people, it is far too punitive.

This legislation is so complex. I do agree and I do support what the insurers say in regard to the fact that you're going to have three systems going. You've got pre-OMPP, you've got people falling under OMPP and people who will fall under this new legislation. There is going to be a bureaucratic nightmare in the insurance companies of this province. Unfortunately, it is going to put pressure to put premiums up.

Mr Winninger: It's always a pleasure to hear from you, Mr Gilby. At one point during your—

Mr Mancini: It sure is.

Mr Winninger: I'm sorry; I don't want a repeat of this morning when I take my few minutes allotted and I get constant interruptions. You mentioned that this plan has been universally condemned. I suggest you might want to talk to Judge Killeen in London who calls this plan the best in North America. He claims to have adjudicated 700 jury trials.

Mr Gilby: He may be the only one then.

Mr Harnick: Why doesn't he come before the committee and tell us then.

Mr Winninger: He did testify before the Slater committee. I would suggest also that if the regulation is too complex—I'm sorry, Mr Chair.

The Chair: Address the Chair. Don't address the opposition.

Mr Winninger: If the regulation is too complex, maybe people who can't afford to retain a lawyer would be able to avail themselves of legal aid in circumstances where they need advice on their policy. But I'd like to cut to the chase here, if I may. You presented many cases here under your damages brief which were foreclosed under OMPP. I think we should be clear on that.

Mr Gilby: Not all of them, but some of them.

Mr Winninger: Death benefits, yes; but most of the others, no.

Mr Gilby: Quadriplegia, loss of legs, no; I would hope those would fit under OMPP.

Mr Winninger: What I'd like to do is draw your attention back to a case that you just had adjudicated—

The Chair: You have about 30 seconds.

Mr Winninger: Where did all the time go?

You had a case in 1987. It went to trial in 1992: Hutchins and Nevin, innocent passenger in his own car. Case

dismissed, \$14,000 loss of income, which represented half your claim for the differential in income over those years, assessed at 25% contributory negligence. What did he get out of the tort system?

Mr Gilby: Can I answer that question? Number one, that case is under appeal, and you're being unfair when you don't indicate what the facts of that were. That was a case where the defence that was put forward was a defence of insanity. The driver of the car at the time was insane and could not have had civil culpability. The reason that case was decided that way was because of an Ontario Court of Appeal decision from the 1940s which, until the Court of Appeal adjudicates on this case, was and still is the law of this province. You're picking an isolated example—

Mr Winninger: I only had 30 seconds. I think there's somebody there—

The Chair: Mr Mancini.

Mr Mancini: Mr Callahan would like to take the floor.

Mr Callahan: I find it strange that Mr Winninger is asking the questions he's asking, because as I recall in the election, he and his party were behind full tort legislation.

Mr Kormos: You've got it, and it still is.

Mr Callahan: In any event—

Mr Gilby: That's why I voted for them, anyway.

Mr Callahan: That's why a lot of people voted for them. But I'd like to ask you—you talked about brain-injured people. Can you tell me, from your experience, how many facilities there are in the province of Ontario to treat brain injuries?

Mr Gilby: For services like Dale Services, of which I'm the chairperson, there is the one in London, there is one in Kingston, and I believe there's the one in Hamilton. There are about four.

Mr Callahan: All right. Fairly limited.

Mr Gilby: Yes.

Mr Callahan: So it's going to require this government to come up with a significant amount of additional facilities. Do you think that their changes in the long-term care provisions are going to help these people?

Mr Gilby: They're not going to help them if they don't understand what their rights are and don't have any opportunity to ascertain what their rights are, no. This legislation, without effective representation, is useless.

Mr Callahan: I'm more specifically concerned about the question of approximately \$100 per day. That will not deal with a person who has a serious brain injury.

Mr Gilby: Yes, the \$3,000 a month. You will not get attendant care taken care of for that kind of money. They will be institutionalized.

Mr Callahan: Okay, the final question—

The Chair: Mr Tilson.

Mr Callahan: Oh, now, come on.

Interjections.

The Chair: Mr Tilson.

Mr Tilson: Mr Chairman, thank you. I'd like to ask the parliamentary assistant to comment on Mr Gilby's second major concern, and that is the issue of fatality, the illustration particularly, which I think is an excellent example, and what his ministry plans to do about resolving that unbelievable discrepancy.

Mr Owens: Which case was this?

Mr Gilby: The tab under "Fatalities"; the three examples that I gave.

Mr Tilson: If he can't, perhaps Mr Winninger could comment on it. I'm just interested in what the government plans to do with an issue that I think is quite real and quite a concern to the people of Ontario.

Mr Winninger: I think the protocol with—

Mr Harnick: This is like a ping-pong game here.

Mr Tilson: Whoever wants to answer it.

Mr Harnick: Somebody should justify this government position.

Mr Owens: I would ask ministry staff to respond.

Mr Harnick: Now it's staff, passing it off to the ministry staff.

Mr Mancini: It's a political decision.

Mr Tilson: I'm interested in the political decision.

Mr Harnick: "After you, Alphonse."

Mr Callahan: I think it's a marvellous brief. It points out the real inefficiency.

Mr Tilson: My time is going, Mr Chairman. Let's try the first question, if no one's prepared to answer that one.

Mr Mancini: The parliamentary assistant should give us an answer. He's here representing the minister.

The Chair: This is the gentleman asking the question: Mr Tilson.

Mr Callahan: Let's send it to Switzerland for an answer.

Mr Tilson: My time's flying. Let's try another question.

The Chair: Okay, I've given you that time, adding it on. So just carry on.

Mr Tilson: All right, I'm going to try the other question, because that's the one that's been raised more frequently; that is the issue of the complexity of this legislation and what the innocent accident victim is going to do. You've taken away the whole issue of the legal people, and you've explained all that. The question is—and this has been raised in almost every delegation that has come forward, and Mr Gilby has certainly made an excellent presentation on that point—who is going to provide the legal counselling to the innocent accident victim?

Mr Owens: In terms of the advocacy question, there are a couple of things that will happen. First of all, as Mr Winninger indicated this morning, the Advocacy Commission is in the process of being set up. The Substitute Decisions Act has been passed.

The second leg of this answer is that the ministry is studying ways to provide advocacy to victims, which may or may not include—

Mr Callahan: You guys are out of business. That's it. You're done; you're out of business. They're going to have advocates do this.

1450

The Chair: Wait a minute.

Mr Callahan: Sorry, Mr Chair, I was just getting back a few of the seconds—

Mr Owens: We are entertaining submissions through various advocacy organizations such as ARCH, and the best system will be worked out.

Mr Tilson: Quite remarkable.

The Chair: I'm sorry, the time has run out.

Mr Tilson: I thought it might.

The Chair: I'd like to thank you for coming before this committee.

Mr Harnick: A point of order, Mr Chairman.

The Chair: Okay, a point of order.

Mr Harnick: The parliamentary assistant says that there's more here being worked out. My understanding is that we have—

The Chair: I don't think it's a—

Mr Harnick: No, it's a point of order. I want you to hear it to the end and then rule. The least you could do is give me the courtesy of listening till you rule me out of order.

The Chair: Okay.

Mr Harnick: The fact of the matter is, we are here examining Bill 164. We're also here examining the regulations. Now I hear the parliamentary assistant telling me that there's more coming and there's more being worked out. What's going on here? Do we have the bill and the regulations in front of us? Are there more coming? What's going on here, Mr Chairman?

Mr Winninger: Are you writing the rules of order, Charles?

Mr Harnick: What's going on here? I thought we had everything in front of us. Now I hear from the parliamentary assistant that there's more coming.

To me, that's a very valid point of order. What are we going to about this, Mr Chair? Are we going to hold the bill up and wait till the rest of it comes so that we can resume these deliberations?

The Chair: For one thing, we're dealing with the bill, not with the regulations.

Mr Harnick: The minister certainly laid the regulations before us and the minister in his speech spoke extensively—

The Chair: Okay, I'm going to rule on that—

Mr Harnick: Let me finish.

The Chair: No—

Mr Harnick: You just raised the regulations. Surely—

The Chair: You're debating with the Chair.

Mr Harnick: No, surely I have a chance to respond. The minister made a speech and referred to those regulations. Is there more coming?

The Chair: Okay, we are not going to debate it. We have other witnesses coming forward. If you want to discuss this with the Chair after and with the parliamentary assistant, fine.

Mr Harnick: We heard what the parliamentary assistant—

The Chair: Okay, I excuse you, sir, and thank you for coming.

Mr Gilby: Thank you, and I hope that more than lipservice will be paid to these comments.

Mr Callahan: I hope so too, but don't hold your breath.

WILSON, WALKER, HOCHBERG, SLOPEN

The Chair: The next group to come forward is Wilson, Walker, Hochberg, Slopen.

We got a call this morning that the London Chamber of Commerce has cancelled out, so this is why we're going to the next group.

I'd like to welcome you before the standing committee on finance and economic affairs. We have one half-hour.

Mr James H. Cooke: My name is James Cooke and I'm an associate member of the firm of Wilson, Walker, Hochberg, Slopen, a firm that represents persons disabled as a result of injuries in the workplace through slip and falls, product liability, medical malpractice and automobile accidents.

Although our clients come from a varied background, the one thing they have in common is that they have experienced a traumatic event in their lives and for the most part they are in a very vulnerable state.

Our role as lawyers is to make our clients' lives whole again after a very traumatic event. As lawyers, we are there to ensure that they are expertly represented and that in making their claim they stand on an equal footing with Ontario's large private insurance companies.

I'm also, as many of you know, related to Dave Cooke, who's my brother and a member of the Ontario government. As difficult as it is for me, as a lawyer representing disabled persons I must oppose both the proposed reforms and the current system that is now in place.

I am not going to go through a lot of what my very able colleagues have indicated are the problems with this legislation. I'd like to focus on one specific area and that is the question of equality of power between victims of accidents and private insurance companies, something which I think is a very serious flaw both in the current and proposed systems.

Automobile insurance was originally created by individuals who are able to afford automobiles but require protection from the potential devastating result of being negligent in an automobile accident and finding that they're liable to an innocent victim for a large sum of damages. When compulsory automobile insurance was introduced, it was recognized in Ontario that all victims of accidents should have access to a stable and large pool of funds to compensate them as a result of someone else's negligence. Any proposed system of auto insurance can protect the negligent driver. Provided that there is a pool of

funds which is available to him to compensate a victim, it really doesn't matter what system is in place. The only problem with insurance and insurance reform is ensuring that victims are adequately compensated.

In my respectful view, there is no public interest in a system of automobile insurance which merely protects the so-called right to drive and sacrifices the goal of adequately compensating innocent victims. The goal, especially of this government's automobile insurance reform, should be a system of adequate compensation that makes the victim whole within a system of insurance available to responsible driving adults. No system of automobile insurance will be affordable to all persons. That's simply a fact of life, as no automobile is affordable to all persons.

As a lawyer, I'd like to explain to some of you who may not be fully aware of what it takes to prosecute a claim on behalf of a victim of any tort, but especially a motor vehicle accident. What is required is, first of all, competent medical specialists to assess a victim's injuries. These specialists are often orthopaedic surgeons, psychiatrists, neurologists or neuropsychiatrists.

Secondly, these experts often are required to prepare detailed medical reports after a detailed medical examination. Those reports are then used as evidence in court proceedings or hearings before, under the current system, mediators or arbitrators.

Thirdly, rehabilitation specialists are required in order to assess the future potential of the accident victim in the workplace.

Finally, especially under the proposed system, an economist or actuary is required in order to put some numbers to the proposed or the potential economic loss of the victim.

Without these tools—without specialists, without medical reports and without the assistance of economists—the victim of the accident cannot and will not be properly represented.

Lawyers have a very significant role to play in the representation of innocent accident victims and at-fault accident victims under the current and proposed system. Unfortunately, one of the things the lawyers have to do is deal with the myriad of regulations under the no-fault benefits schedule, under the former schedule C of no-fault benefits and under the proposed no-fault benefits schedule.

I've had to deal with all three and still do, and I must frankly say that the worst of the three is the proposed no-fault benefits schedule. It is a 67-page regulation which I can honestly say I've read for the 11th time today and I still don't understand it, and I've been practising law for seven years. I have colleagues of mine in my firm who have practised law for in excess of 20 years and they can't understand the regulations at all. It is impossible to expect that any layperson will be able to understand the proposed regulations.

There is also in place, and will be preserved, a complicated dispute resolution system with uncertain limitation periods which require consultation with lawyers.

Finally, under the proposed system there will be a proposed \$15,000 deductible from non-pecuniary damages, which requires a significant input from a lawyer as a

victim must be advised whether it is economically justified to bring a lawsuit against the tortfeasor.

1500

Lawyers are able to assist their clients through the proposed regulatory nightmare. I hope they will. Perhaps after 20 readings of the regulation, I might finally understand it. They are able to advise their clients of the advisability of bringing a claim for non-pecuniary damages. Most importantly, under the former system lawyers were able to financially assist innocent victims with their disbursements and legal costs pending the resolution of the tort action.

Under the current and proposed system, I would like you to imagine the current or any Ontario government decertifying every single bargaining unit in Ontario and outlawing permanently trade unions. Former members of trade unions would become, in effect, powerless against what are typically large and powerful employers. In my opinion, the current and proposed system of insurance reform has decertified victims of accidents.

The plain truth of the matter is that it is not economically justifiable for lawyers to represent victims or for victims to retain lawyers under the current and proposed system. Whereas under the former tort system the cost of prosecuting a claim would be paid out of a lump sum award of damages and costs, there will be no pool of capital to fund the costs of prosecuting a claim on behalf of innocent accident victims under the new and current system.

In those circumstances, the odds are stacked against innocent victims. Limited periodic payments set at an arbitrary level and made in fewer cases can't possibly pay for the significant capital outlay required to properly represent innocent victims of accidents. Lawyers being businessmen, and practical businessmen I hope, will no longer fund these disbursements because they risk never being compensated for their capital outlay in the event that the award cannot cover the cost of disbursements.

Non-pecuniary damages, under the old tort system, were typically a very small component in the overall damage award in respect of the clients I represented who were for the most part very seriously injured and permanently disabled from the workplace. Now, with an arbitrary \$15,000 deductible in respect of the personal damage award and a \$5,000 deductible in respect of the Family Law Act award and the outright prohibition of making any claim for economic loss against the at-fault driver, it will no longer be economically justifiable to represent most victims of accidents.

Lawyers, my colleagues in Windsor, are already leaving this particular area of practice and entering other areas of practice which are economically justifiable both from the lawyer's point of view and from the client's point of view. Even those victims whose non-pecuniary damages exceed the \$15,000 deductible—and that is a matter of guesswork in some cases—will not obtain proper representation, as the return on the required outlay cannot possibly be justified from the client's point of view.

In other words, a client who may be entitled to a non-pecuniary award of approximately \$25,000 will go unrepresented as an award of \$10,000 cannot possibly cover the

disbursements and legal fees which must be incurred in order to collect that amount. Insurance companies are going to know this, and it is my view that the insurance companies are not going to be inclined to settle these borderline claims, as many in the government and those who support the legislation have indicated.

The sad truth is that under the current and proposed system most innocent victims are going to go unrepresented, or if they are represented, they will be represented by laypersons or persons claiming expertise in this area without having the formal and important training that lawyers have. In effect, they will be left, metaphorically, to collectively beg, as are workers who are non-unionized, for benefits from a large, private bureaucracy whose only goal is to maximize their employer's profit.

Under the former tort system, despite all its faults, and I must say many of them were administrative and the fault of the government itself, both the former and the current government and the federal government—ie, inadequate numbers of judges and court staff—the court was a level playing field between the innocent victim and a large insurance company. The skills of the defence counsel and the plaintiff's counsel were basically the same, and with the access to a lawyer's floating loan account which could fund disbursements, they were fairly equal in terms of the amount of money they could spend on prosecuting a claim as well.

Under the proposed and current regime, the level playing field is gone. Now victims are going to be left on their own. They are left on their own and have been disempowered. Metaphorically speaking, this government and the former government have decertified accident victims.

In conclusion, one of the stated goals of this government has been to redistribute power more fairly in society. The government has taken many concrete steps towards that laudable goal, and I'm thinking in particular of the labour law reforms and other reforms in the areas of pay equity and employment equity. In many instances, the government has been unfairly criticized by what I would call career politicians unwilling to accept the legitimacy of the current government.

As I have stated in my written statement, I do not question the motivation of this government in establishing the proposed reforms. I think there's a genuine belief that these are an improvement from the current and former system. On paper, they may appear to be a substantial improvement from the current plan. However, the sad fact is that this plan does not live up to the government's goal of redistributing power more fairly in society. The proposed plan disempowers one of the weakest groups in society, innocent victims of accidents.

I ask all the members of this committee—and it doesn't appear that you can, but if you could—to put aside your partisan differences and cease using victims of accidents as political pawns. I ask you to sincerely consider the valid criticisms of the current and proposed plan which have been put forth by my colleagues and myself, and I especially wish to address the members of the current government, many of whom I am personally acquainted with. I ask, I beg of this government to live up to its potential

and to meet its goals and restore the level playing field to victims of accidents.

Mr Mancini: I hardly know where to start. I'd like to say to Mr Cooke that I deeply resent your accusation that some of us are using accident victims as political footballs. The Ontario motorist protection plan was introduced well before the election, and the electorate knew what the plan was and had a choice to decide whether or not to support that plan and the political people who introduced that plan, as Mr Nigel Gilby said just before you sat down.

He voted for that government because it made three specific promises on automobile insurance. They promised government-owned automobile insurance, and they broke that promise, Mr Cooke. They promised full tort, and they broke that promise, Mr Cooke. They promised lower automobile insurance rates, and they broke that promise.

If you're concerned about people not keeping their political promises and if you're concerned about people using accident victims as political footballs, I'd advise you not to look in this direction. Our policy, whether you like it or not, was in place before the election, and you had the choice before the election to decide whether or not you agreed with that plan. You and other people like you listened to promises that you liked, and those men and women sitting across the aisle from us didn't deliver.

Mr James H. Cooke: Do you have a question, Mr Mancini?

Mr Mancini: Yes, Mr Cooke, there is a question.

Mr James H. Cooke: I wish you wouldn't make a speech on my time. I've taken quite a bit of time to prepare this statement, and what I don't need is some pathetic attempt by a member of a failed and incompetent government to justify a sellout to the insurance companies that, I might add, nearly resulted in your losing your seat.

Mr Mancini: I might add, Mr Cooke, that—

Mr James H. Cooke: We've all made our judgement on your government, Mr Mancini. Would you please ask me a question or let somebody else ask me a question.

Mr Mancini: Mr Cooke, you used your time the way you wanted to. The Chair has allocated me a certain number of minutes, which I will use in the manner that I see best fit.

Mr James H. Cooke: The people watching this committee and listening to you, Mr Mancini, are fed up with your type of politicians, and this is exactly what I'm talking about. You're trying to make political points off me, sir. Why don't you just ask a question?

Mr Mancini: Mr Cooke, you are the one who has tried to make all the political points. You've delivered the most political brief of any group, individual or organization that's been before this committee, and you are the person in your brief who accused members of this committee of using accident victims as political footballs. You made that accusation. I have not accused the government members of that. I was not going to bring this matter up until you accused me and my colleagues of that particular action. You should be ashamed of yourself.

The Chair: Mr Mancini, I'm sorry, don't badger the presenter.

Mr Mancini: Don't badger the presenter?

The Chair: You are.

Mr Callahan: I didn't see you intervene when he was badgering the member, Mr Chairman. Be independent. You're supposed to be independent.

The Chair: Okay, go ahead. I'll let Mr Mancini carry on here. You've got one minute more.

Mr Mancini: He has sat there and insulted members of the opposition since the moment he sat down, and if he thinks he can use this platform to protect his brother and his government, he's sadly mistaken.

Mr James H. Cooke: Oh, that is pathetic. You should be ashamed of yourself, Mr Mancini.

Mr Mancini: You should look in the mirror, Mr Cooke.

Interjection: It's more than most members do to come here and say what he did.

Mr James H. Cooke: You should be ashamed of yourself and you know what, Mr Mancini—

Mr Mancini: Mr Cooke, in your time—

Mr James H. Cooke: Will you please let me finish, sir.

Mr Mancini: In your time, Mr Cooke—

Mr James H. Cooke: Sir, I'm paying your salary to be down here. Would you please let me finish.

Mr Mancini: You made not one mention of the road safety program that the government promised; you made no mention of that.

Mr Cooke: I'm not going through your litany of questions, Mr Mancini.

1510

Mr Mancini: You made not one mention of rate increases that people can't afford to pay; you made not one mention, Mr Cooke, of the increase in rates for senior citizens, of the increase in rates for women, and all of these other things that are affecting people. All you wanted to do was accuse the opposition of badgering or not looking after accident victims. That's what you used your time for.

Mr James H. Cooke: In answer to your question, Mr Mancini, that great quote from Shakespeare, "Methinks he doth protest too much."

Mr Mancini: You're the one who protested too much. We read your brief, Mr Cooke.

The Chair: Mr Harnick.

Mr Harnick: Mr Cooke, I appreciate your coming here today. It was a very courageous thing that you've done in light of who your brother is.

Interjection: Particularly courageous, I'd say.

Mr Harnick: Quite frankly, I like your brief and I think there's a lot of food for thought in this brief. What I want to talk about—because you are obviously a person who the people sitting opposite me may listen to and may have some respect for—I want you to explain, if you can, this idea of melding tort and no-fault.

One of the things—and I'm accused of it every day by my friends opposite because I also make a living the same way you make a living, helping innocent accident victims who've been involved in car accidents. I try to get them as much money as I can to put them back in the position they would be in had they not had the accident. My friends think that what I'm doing for innocent accident victims is somewhat illicit; it's wrong to try to get them back to where they might have been had the accident not happened. They think that because I believe in that system, you can't have a belief in no-fault at the same time, that you can't have a belief in melding these two functions and at the same time ensuring that the innocent accident victim has the opportunity to claim everything he lost.

They won't listen to me and they won't listen to any of the other witnesses. Maybe they'll listen to you if you explain to them what this is really all about.

Mr James H. Cooke: I read and believed in the then opposition New Democratic paper called Highway Robbery. There was a very nice metaphor used in there, and that is that you don't get caviar if you're only willing to fork out enough money for hot dogs or something to that effect. I know it talked about groceries.

What Highway Robbery proposed was a no-fault and tort system combined that provides adequate compensation not only to innocent victims but to those victims who are also at fault because, after all, the victims who are at fault require some sort of stabilization in their lives as well. They too, while they may have been at fault in the accident, are victims of a tragedy in their lives. No one is suggesting that at-fault drivers are in any way intentionally trying to cause an accident. They go out there and something terrible has occurred and, as a result, their lives are destroyed as well.

I might add, as a representative of accident victims, I very often represent people who are at fault. Just last year, before Christmas, I spent an entire day driving out to Chatham representing a young hockey player who, unfortunately through his own fault, got seriously injured in an accident as a pedestrian. I represented him before the Social Assistance Review Board, I might add, at no cost to him.

I think most personal injury lawyers are concerned about adequately compensating all victims of accidents. But the fact is that innocent victims of accidents shouldn't have to pay in order to adequately compensate at-fault victims of accidents. As Highway Robbery stated, if it's explained in a rational and calm fashion, as many of the policies of the current government have to be explained, people in Ontario will be willing to pay increased benefits for more adequate coverage, just as we're willing to pay more for better-tasting groceries, as they said in Highway Robbery.

Mr Harnick: Wasn't Bob Rae the author of Highway Robbery?

Mr James H. Cooke: Yes.

The Chair: I'm sorry, I've got to cut you off. Mr Owens.

Mr Harnick: Can we file Highway Robbery as an exhibit to this committee? May I do that, Mr Clerk?

Mr Owens: I'm being interrupted.

Mr Harnick: Mr Clerk, may I do that?

The Chair: You can file it up here with the clerk.

Mr Harnick: I'd like to file Highway Robbery, submissions to the Honourable Mr Justice Coulter A. Osborne, commissioner, presented by Bob Rae and Mel Swart, MPPs representing the New Democratic Party.

Mr Owens: Mr Chair, I'm being interrupted.

The Chair: Mr Harnick, will you give it to the clerk?

Mr Harnick: It's got the New Democratic logo right there.

Mr Winner: On a point of order, Mr Chair: I hope this doesn't cut into the government's time.

Mr Harnick: You can have all the time you like.

The Chair: Mr Owens.

Mr Harnick: Take all the time you like.

Mr Owens: I'm being interrupted, Chair.

The Chair: Mr Harnick.

Mr Harnick: Yes, sir.

The Chair: You know, I came close this morning to calling a recess and having a little talk with you.

Mr Harnick: Close only counts in horseshoes.

Mr Owens: I'm being interrupted, Chair.

The Chair: Go ahead, Mr Owens.

Mr Owens: Thank you, Chair.

I'd like to thank you for your presentation. You presented an interesting perspective this afternoon: counsel as businessperson, rather than the heroes that some of my friends opposite want to portray personal injury counsel as. My question to you, sir—

Mr Harnick: Pardon me. Who said that?

Mr Owens: I'm being interrupted.

Mr Harnick: On a point of privilege, Mr Chairman.

The Chair: What's your point of privilege?

Mr Harnick: My point of privilege is that I have been maligned by the parliamentary assistant and I want him to withdraw those last comments.

Mr Mancini: Mr Chairman, on the same point of order: I have been sitting in these hearings since the first moment that these hearings commenced. I cannot recall one member of the opposition even insinuating what the parliamentary assistant has stated, and I would support my colleague and ask him to withdraw that comment.

Mr Winner: Mr Chair, on a point of order: Yesterday—

Mr Harnick: Will you deal with my point of personal privilege first? I raised the point of personal privilege and I want you to rule on it first. You can't start doing something else. I have the floor.

Ms Haack: A point of order outweighs your personal privilege.

Mr Harnick: No, it doesn't.

Ms Haack: Yes, it does.

Mr Harnick: No, it doesn't.

Ms Haeck: A point of order, please.

Mr Harnick: I want him to withdraw that remark.

Ms Haeck: A point of order.

Mr Winninger: Point of order.

The Chair: I haven't got the record in front of me to read—

Mr Paul R. Johnson (Prince Edward-Lennox-South Hastings): Did you withdraw yours yesterday, Charles?

Mr Harnick: Which one?

Mr Johnson: The liar one.

The Chair: Wait a minute, Mr Johnson.

Mr Harnick: You didn't ask me to, because you obviously agreed with me.

Mr Johnson: I said it was unparliamentary.

The Chair: Turn the mikes off. A recess for five minutes.

The committee recessed at 1517 and resumed at 1526.

The Chair: Mr Harnick.

Mr Harnick: Go ahead and call me all the names you like. I'm withdrawing my point of privilege.

The Chair: I listened to the tape. Your name wasn't mentioned. It might have been eye contact.

Mr Harnick: Oh, I know my name wasn't mentioned. He was looking right at me, that's right.

The Chair: Okay, eye contact. Thanks a lot. We can carry on.

Mr Harnick: For all my transgressions, I ask forgiveness.

The Chair: We've got five minutes. Mr Owens.

Mr Owens: Just in terms of your comments respecting the courtrooms as a level playing field, how would you see them as a level playing field, when under the former system our calculation is that somewhere in the neighbourhood of only 5% of those who qualify break through the threshold and 95% of victims don't qualify, and those who actually get into court may or may not win? So how is that a level playing field, and why would you not describe that as a minefield?

Mr James H. Cooke: I am not suggesting that the OMPP was a level playing field. In fact, for the majority of innocent accident victims, it wasn't. What I'm suggesting is that the system that was in place before OMPP was a level playing field, and when clients are expertly advised and capable lawyers are able to look at the facts of the case, they are more than able to assess the degree of fault and expertly advise their clients as to what they can expect in the courtroom.

When you're facing a lawyer or a firm, I might add, without bragging, of our calibre—I can tell you that our firm is on a par with any firm that defends insurance companies from legitimate claims of innocent accident victims. It's the only place where victims are going to get a fair hearing, because they're represented by people who equalize, just the way that unions equalize workers with their employers.

Mr Owens: In response to a question from Mr Tilson with respect to advocacy, I indicated that the government is currently entertaining submissions on how advocacy can be given to those in the system as they work their way through. Do you have any suggestions in terms of the kind of language you would like to see in the regulation with respect to advocacy? Do you see the reg needing to be more directive or do you see the reg needing to be more general in nature?

Mr James H. Cooke: I think that if you're going to try to regulate the advocacy system, you should talk to the victims of industrial accidents, because if you talk to any victims of an industrial accident and you ask them if they'd rather have me represent them or the worker adviser, or have any other lawyer who represents victims of accidents represent them as opposed to the worker adviser, 99% of the time, when they're making an informed decision, they will choose a lawyer.

If you attempt to regulate the advocacy system, you'll regulate it out of existence and accident victims will be even worse off. Lawyers are self-regulated. We've been doing this for a long, long time and we don't need more regulation. Members of the public have been crying out for less regulation of their private lives, and I've urged the government not to interfere with what is a sacred relationship between a client and her lawyer.

Mr Owens: How do you propose the system deal with those victims who lose in court?

Mr James H. Cooke: Hopefully, you will retain a substantial degree of the accident benefits you already have, but if a victim is innocent and has been injured as a result of someone else's negligence, he ought not to lose in court. I can't speak hypothetically. If someone should have won in court and has lost, there are other recourses as well. But innocent victims, to my knowledge, do not lose in court when I represent them.

The Chair: Thank you for appearing before the committee today. I know your brother sometimes—the name Cooke gets hostility in the House also.

Mr James H. Cooke: If I could add one thing that I've told the media here, this has nothing to do with my brother. I'm not here as Dave Cooke's brother; I'm here as a representative of innocent accident victims.

The Chair: Yes, I understand.

Mr James H. Cooke: I don't want anybody to use this against my brother who, I think, has done an excellent job.

The Chair: Okay, thank you.

The next group to come forward is the Essex County Chiropractic Association.

Interjection.

The Chair: What's that? Can you call them in?

Interjection.

The Chair: They're not here now; they're downstairs.

Interjection: Let's take a short recess.

The Chair: Okay, we've got time because one group didn't come. We'll take a 10-minute recess.

The committee recessed at 1533 and resumed at 1540.

ESSEX COUNTY CHIROPRACTIC SOCIETY

The Chair: Our recess is over and I see that we have the Essex County Chiropractic Society present before us. I'd like to welcome you to this committee. It's been awful warm in this room this afternoon, so that's why we've got the door open. We have one half-hour. In that half-hour, if you can leave some time at the end of your presentation for members of the committee to ask questions, you may begin. Please identify yourselves for the purposes of Hansard also.

Dr Madeline Crnec: Good afternoon. My name is Dr Madeline Crnec. I am a chiropractor here in Windsor and the immediate past president of the Essex County Chiropractic Society. With me is Dr Jan Kempe. He also practises in Windsor and he is the chair of the Ontario Chiropractic Association insurance committee. Many relevant cases pass by his desk every day in the course of his duties in that position.

The Essex County Chiropractic Society is a regional branch of the Ontario Chiropractic Association and represents the chiropractors here in Windsor and in the county of Essex. In this brief submission, the society wishes to address the proposed auto insurance reforms found in Bill 164.

The society is encouraged by several of the proposals therein which are consistent with the multidisciplinary approach fostered in the new Regulated Health Professions Act, 1991, specifically section 44 and section 47 of the statutory accidents benefits schedule which deal with initial and ongoing certification of disability, respectively. These proposals are further supported by the recommendations made by the Osborne inquiry into motor vehicle accident compensation in 1988. Those recommendations are attached to the submission you've been given.

These proposed changes would rectify a great injustice which has discriminated against accident victims who have chosen chiropractic treatment as a right, but who were required by insurers to obtain medical certification for benefits. The hardship arose if, and oftentimes when, the medical certification for chiropractic treatment was unjustly withheld.

It seems imminently more appropriate that the capacity to issue disability certification should encompass chiropractors, dentists, optometrists, psychologists, as it is now proposed, allowing for a more accurate evaluation of these specialized areas of health care.

The society is also in support of the multidisciplinary approach being encouraged in Part VIII, the rehabilitation benefits, section 33, "case management related to the design and coordination of a rehabilitation plan." This would allow, again, a multidisciplinary approach to rehabilitation.

It is now well documented in many fields that soft tissue and joint injuries most commonly sustained in auto accidents respond most effectively to active therapy and to early rehabilitation measures. This coordinated approach is not only cost-effective in the long run for the insurer, but will serve to limit the suffering and loss of quality of life and productivity for the accident victim. Increasing emphasis on this aspect of care must result in a win-win situation for both insurer and accident victim.

A concern which has been raised by the members of this society, as well as in other circles of our profession, is the issue of collateral benefits as it impacts on chiropractic care. Chiropractic is unique in the medicare scheme of Ontario in that there is a modest annual dollar ceiling placed on the services provided. Patients who are involved in auto accidents must exhaust their annual allotment for chiropractic care before the insurer pays for the full fee for service.

This significantly disadvantages patients who are accident victims who, once recovered from an accident injury, develop some other uninsured problem for which no medicare coverage remains. In effect, this allows the chiropractic patient only one problem a year, including the possibility of an auto accident.

Considering the percentage of Ontario accident victims who seek chiropractic care and considering the unique financial arrangement that chiropractic patients have with OHIP, it is our contention that it would be a modest financial impact—maximum allowed under the OHIP plan is \$220 a year per patient—and much fairer to the insured if the insurer paid the full fee for services for auto accident victims. This would leave the OHIP chiropractic coverage intact for other required services throughout the year.

In conclusion, as health professionals who see accident victims on a daily basis, often over a significant period of time, we are aware of the injustices and hardships that have been created by the current Ontario motorist protection plan. It is the society's impression that several of the proposals in Bill 164 address these injustices, and we would encourage a closer examination of one more.

We are heartened by the increased accessibility to the courts. Perhaps we more than any other health care provider see people whose lives are affected, whose lifestyles are affected, whose quality of life is affected by the pain and suffering related to soft tissue injury. Soft tissue injury is very hard to document and is not well compensated for in the current system, and not having access to courts did, I think, create quite a hardship for many of our patients.

The final paragraph is only our introduction that I put at the end, and you've heard that, so this completes our presentation at this time. We are very anxious to answer any of your questions.

1550

The Chair: We have seven minutes per caucus; Mr Tilson to start off.

Mr Tilson: I appreciate your remarks, how this deals with your particular industry. One theory that has been put forward dealing specifically with the \$15,000 deductible is that all kinds of games will be played, first to qualify for the liability, and second, to qualify for accident benefits, whatever they may mean. We're having lawyers and insurance companies and probably yourself coming forward and saying, "What in the world do these pages and pages of regulation mean?" You may wish to comment on that.

One of the theories that's been put forward is that to try to reach this magic figure for whatever purpose, people are going to be encouraged to seek more and more treatments. In other words, this could be a great boon to your industry.

To demonstrate a higher degree of pain and suffering, whether for litigation or whether for benefits, you'll get all kinds of business, because lawyers—and whether it's the advocates we're now hearing about, this new advocacy group that's going to come forward—people will be recommending that the innocent victims go and see people like you to qualify for those benefits or to qualify for the \$15,000 deductible. Have you any thoughts on that? Do you agree with that? Is that a genuine fear?

Dr Jan Kempe: Under the current regulations, there is no provision for an insurer to monitor what a chiropractor is doing, as far as it relates to the efficacy or the necessity of care.

Mr Tilson: Don't misunderstand me. I wasn't challenging the efficacy of your industry.

Dr Kempe: I think overtreatment may at times be a legitimate challenge. It's my understanding that under these proposed regulations, there will now be some mode for insurance companies or for insurers to ask for or demand an independent opinion, either from another chiropractor or from an MD. I would think that would go a long way to precluding that type of eventuality.

In the Ontario Chiropractic Association we have, over the last number of years, formed what we call an insurance consultants' committee. Their function is solely to intervene in such situations and to judge if one of our members or even one of our non-members might be thought to be overtreating a patient and to make subsequent recommendations.

Mr Tilson: It's going to become awfully tempting, whether it's the advocate or the lawyer or someone else who's trying to assist these people, for the chiropractor who's going through all these difficulties that you're describing. But meanwhile, you're going to get all kinds of business—I really believe that—because of this terrible \$15,000 deductible issue. I guess that gets to my real question: What do you think of the \$15,000 deductible, and not necessarily just from your own industry?

Dr Kempe: I have personal opinions on that. I don't know if they represent society's opinion. Probably \$15,000 deductible is a moderate and reasonable scale compared to what it was before the OMPP as we now know it.

Mr Tilson: You support it?

Dr Kempe: Yes.

Mr Tilson: I'd love to have time to debate it with you, because I can tell you that the person who goes all the way to court and receives damages of \$20,000 or \$25,000, pays his or her legal fees and comes away with \$5,000—it's not fair. The innocent accident victim is what we're talking about, sir. I'll tell you that when people suddenly realize what this legislation is doing with this particular claim—it's penalizing the innocent accident victim.

I respect the concern you have for your industry, but I can tell you that on that last point I've got a great deal of difficulty. I don't see how anyone—in fact, you're the first person I've heard, other than this group, who comes along and supports the \$15,000 deductible. I haven't heard one group come forward to this committee and say that. If it is your personal view, that's fine. I hope it's not the view of

your association, because I can tell you that you're all alone. Those are my questions.

The Chair: Before I go to Mr Lessard, did you get a copy of the brief that your association put in, Mr Taylor in Toronto with his presentation? Did you get a chance to see it?

Dr Kempe: I'm aware of their brief and I have a copy. I can't say I've read it.

The Chair: I know it's hard to come across with all the answers, so feel comfortable there if you don't have the answer.

Dr Kempe: I'm not uncomfortable.

The Chair: Okay, fine.

Mr Lessard: Thank you very much for your presentation. We certainly appreciate your taking the time out of your schedule to appear and make your remarks before our committee today. You're fairly critical of the OMPP in your brief, and you refer to the changes in this legislation—and this is to quote your submission—that they “rectify a great injustice,” and also you refer at the end to “injustices and hardships created by the current OMPP.”

Other people have come before us and have used examples of cases that they've run into in their own businesses to either criticize or support this proposed legislation. I wonder if you can give us some examples of situations that you might have run into in your own practice that demonstrate to you those injustices that you're referring to.

Dr Kempe: I see a number of problems that arise between the insured and insurance companies as they relate to chiropractic, certainly on a weekly if not a daily basis. The most recent one that was referred to me within the last week was an instance of a chiropractor treating a patient who had attended him as a primary contact practitioner. The patient was doing well. The patient was satisfied. The chiropractor was satisfied. The rehab counsellor, out of necessity, had to attend an MD to get the various certifications signed.

As it turns out, the rehab counsellor and the medical doctor, without consultation with either the patient or the chiropractor, determined on a prescribed set of services that the chiropractor should render and it is leading to disagreement, of course, between the rehab counsellor, who thought he was being perfectly reasonable in his duties, and the patient, and of course is causing some tension between the two providers, both of whom attend the patient.

Mr Lessard: I guess what we're really talking about is the best course of treatment for the person who's been injured. There may be some disagreements, I suppose, with respect to that, depending on what profession you're in. I wonder whether, in that example, what you're referring to really is a course of treatment that seemed as though it had been begun and then got changed. Is that the example you're referring to?

Dr Kempe: It was changed without consultation with either the practitioner or the patient, the accident victim. In this case, it was changed by the rehab counsellor, again, I

don't think with any malice, and an MD who was not really cognizant of the patient's complaints at that time.

Mr Lessard: What sort of impact do you think that might have, changing the procedure or the treatment after it had been begun, or maybe halfway through?

Dr Kempe: Of course, the worst consequence is that the chiropractor and the patient come to the agreement that really they can't continue. If it's been prescribed by another person, without consultation with either one of them, it leads to interrupted care and the patient being sort of steered from pillar to post and to different types of treatment, all of which, again, begin at the beginning and all of which begin with an expensive workup and reports and the like. I think it's an expense, certainly an unjustified expense, to the insurer. It's an inconvenience to the patient and probably prolongs his treatment regime, and it causes undue stress to both the MD and the chiropractor.

1600

The Chair: Ms Haeck.

Ms Haeck: I appreciate your comments. We've heard from a number of organizations and individuals who in fact are involved in rehabilitation. In fact, one of them was the St Michael's Hospital head injury group, who were very much in favour of the multidisciplinary approach, people basically as service providers, health care providers, getting together and working out what in fact the treatment program will be. One of their major supports of all this legislation was the fact that the rehabilitation program happens immediately. I would suppose from your position that that is something you would strongly support as well.

Dr Crnec: It's also something that all the literature strongly supports: the sooner the better.

Ms Haeck: The other concern raised by a group that was here this morning was in relation to standards and guidelines that a certain number of almost fly-by-night rehabilitative services currently do not abide by. Do you have any comments on what you're seeing out in the rehabilitation field and the kind of guidelines you might be giving to the task force that is dealing with the rehabilitation costs?

Dr Kempe: The rehab industry is somewhat new, not as it applies to head injuries, of course, but certainly as it applies to motor vehicle accidents. There are a number of organizations that have been formed in the last year or two, including a committee by our own profession, to determine what we think are reasonable guidelines for the conveyance of rehabilitation to the patient. We're still in the process of setting up those guidelines as they apply to our own profession, and certainly we've taken a very proactive step in determining those and in policing that, but they're not complete. I have a meeting in two weeks' time to continue with that process. As far as they apply to any other profession, I have no comment.

Ms Haeck: I would encourage you also to keep in touch with the task force, because obviously your input will be sought after.

Mr Callahan: I'm curious, because I practised somewhat in this field, and under the tort system lawyers were

reluctant—and this is not a slight of your practice—to use a health professional unless a doctor had prescribed it, because there could always be the argument by the other side that the procedure used was not the most appropriate one and perhaps added to the injury.

I now look at your brief, paragraph 10 of your brief. In your conclusions you say, "It is the society's impression that several of the proposals of Bill 164 address these injustices, and we would encourage closer examination of one more." I gather you're talking about sections 44 and 47. Is that right?

Dr Crnec: That's right.

Mr Callahan: I've looked at sections 44 and 47, and they're going to make the Workers' Compensation Board look like a picnic. I refer to certain things like 47, which you'd need a Philadelphia lawyer to understand: It's got some 20 provisions to it, and after you go through a whole slew of steps—I hope your profession is not going to have to send out all these notices, because you're going to need forms; your mailing costs will be outrageous.

Just when you get to the stage at item (12), it says, "If the insurer and the insured person have not agreed on a health practitioner to conduct the examination within"—I mean, these all have time limits, and if you miss the time limit, tough luck. So I hope there are advocates out there to help lawyers, because I'm sure they're going to screw up on time limits or the public is going to screw up on time limits. In any event, the one time limit says:

"If the insurer and the insured person have not agreed on a health practitioner to conduct the examination within fourteen days after the insurer received notice from the insured person under subsection (9), the insurer may require the (insert name of appropriate committee established under section 7 of the Insurance Act) to select the health practitioner."

Then we get into, "The committee shall promptly select a health practitioner who, in the opinion of the committee is independent of the insurer and the insured person and has the expertise necessary" etc, etc, etc.

I don't know about you, but I find it interesting, because recently Minister Churley was saying she wanted to put everything into ordinary language. I hope this isn't going to be part of my policy, because I couldn't possibly carry it around; I'd get tennis elbow. But if what the government is trying to do is make things clearer for the public, do you not agree with us that those things would require probably a master's in law? Are you fully cognizant of these draft regulations? Do you know what's in here?

Dr Crnec: I've reviewed it.

Mr Callahan: You've read it. Do you understand it?

Dr Crnec: I don't have a master's in law, so perhaps I misunderstand it. However, we are accustomed to dealing with deadlines; as you well know, WCB is living with them.

Mr Callahan: Yes, and WCB causes you people a lot of problems.

Dr Crnec: They're equal opportunity aggravators.

Mr Callahan: I see. So you have actually read through these draft regulations?

Dr Crnec: Yes, sir.

Mr Callahan: Well, I commend you for it. Did you read them once or twice?

Dr Crnec: It depends on the paragraph.

Mr Winninger: Better than no times at all.

Mr Callahan: My colleague across the floor says, "Better than no times at all." I wonder if anybody over there has even read them. I doubt it.

In any event, you've said it gives you the impression that several of the proposals of Bill 164 address these injustices. Have you got any definitive opinion from anybody that says they do address it? "Impressions" is a rather minor word. It doesn't tell me that you're sure about this; you're a little fuzzy about it. Is that a fair comment? Are you fuzzy about it?

Dr Crnec: My impression with law and regulations in general is that it's very difficult to know how it's going to work until it's up and running. The intent of the proposals, as I have read them, is encouraging to us. The fact that chiropractors will have the ability to issue disability certification with regard to injuries that are appropriately being treated by chiropractors is encouraging to us.

Mr Callahan: So that's the sum total of what this brief is about: that you're encouraged that no longer will an individual have to have a doctor say that it's all right for a chiropractor to examine the patient and therefore have it extracted from their—what is it, once a month or something, or a certain amount under OHIP that you're entitled to recover? Is that what it's all about?

Dr Kempe: The new regulations have nothing to do with what's extracted from OHIP. I have no recollection of either myself or Dr Crnec saying that that's the sum total of our impression of these regulations.

Mr Callahan: But what I was getting at, to be fair, is that you're coming here today—and we certainly encourage anyone to come before this committee—and my reading of your brief and what has been said—and I don't want to be unfair, and if I'm wrong, please tell me—is that the highest it's at, your impression is that with the regulations that have been drafted in conjunction with Bill 164, you will now be able to treat an accident patient without the necessity of a doctor's referral.

Dr Kempe: We can already treat patients without a doctor's referral.

Mr Callahan: I appreciate that, but it comes out of their OHIP allocation.

Dr Crnec: It does now.

Dr Kempe: Nothing is changed by these regulations in that vein.

Mr Callahan: It is. What it does, I suggest to you with the greatest of respect, is that it gives you the opportunity to have another source from which to be compensated other than that OHIP access, which you want to reserve. I think it's fair to say, for people for things that might happen to them during the year other than the accident they

have. It gives you another access, another fund out of which to recover that money, isn't that right?

Dr Kempe: It's certainly not another fund. We already bill insured's companies. The regulations, as proposed, don't change what you're alluding to.

Mr Callahan: That's not the impression I got from your brief.

The Chair: Mr Callahan, we've run out of time. I'd like to thank you for appearing before this committee and for being able to get here a little sooner than when you were scheduled.

Dr Crnec: We hope this means your day will be a little shorter.

The Chair: Well, we got it extended a little there for a while.

1610

MARY ELLEN LOCKYER-CHENEY

The Chair: The next presenter is Ms Mary Ellen Lockyer-Cheney. Would you come forward, please. We have 20 minutes, until 4:30, and we have your brief in front of us. Can you leave some time at the end for questions? It looks like it will take 20 minutes to read this brief, or do you have it so that you can go off the top of your head on this one?

Ms Mary Ellen Lockyer-Cheney: I don't intend to read to you the entire brief.

The Chair: Fine. This will all go in the record.

Ms Lockyer-Cheney: In June 1990, my renewal for my automobile insurance coverage came due. Prior to this occasion, I was aware of proposed changes to the Insurance Act. However, I had not been able to obtain any real facts on the changes, nor had I been contacted by a representative of that industry to give me any information regarding this issue. So much for my understanding of the insurance.

Enclosed with my premium notice was one sparse pamphlet, which at best was very vague, but it did tell me that in the event of need, I would never need to concern myself about benefits; in effect, that the new system should run much smoother than the previous system.

Upon my contacting not one, but several people in the industry, I was given answers such as, "We really don't know what is going to happen" or, "It will be okay. Just renew your policy. You need the coverage anyway," types of scenarios.

On August 9, 1990, I found myself eastbound on Highway 401 just east of Toronto. It was at this time that I became the victim of a motor vehicle accident and began to learn first hand just what our new insurance was and, more to the point, was not about.

At the scene of that accident, I felt very victimized and invaded by the apparent injustice and consequences of the negligent person who had hit me and then proceeded to verbally abuse me. However, what I felt at that time was to become very minor-league compared to the humiliation, degradation and victimization I was to feel and continue to experience as a victim of the system of the "new and

improved legislation." I was to continue to learn that this following quote, read prior to this legislation, would become a truthful nightmare:

"The government's publicity about its new plan makes it seem as if it is the solution to automobile insurance in Ontario. It is not and will never be. It is a vicious and mean plan, more unkind to accident victims than any compensation plan in existence anywhere."

I, as a victim, am outraged, as I have gradually become aware of the rights not just violated but stripped away.

At no point in any of this process was I offered encouragement, guidance or assistance with any part of my difficulties. In the beginning, I was bombarded with a ridiculous number of forms—I ask you to judge for yourselves—because at this point I was barely able to carry out my own personal hygiene, and I was forced to find ways on my own to procure information from my employer, repeated medicals and in duplicate, week after week, just to survive financially.

Imagine yourselves with both hands swollen, blue, numb and encased in braces because they were sprained on impact; a blinding headache brought on by pressure fractures to vertebrae; bulging discs in my neck; a face swollen to the point that my eyes were all but swollen shut, and to be told bluntly to get it done the best way I knew how and within the time criterion or go without.

At a later date, after much therapy and with the prognosis of returning to my former position looking rather bleak—in fact, the doctors specifically told me at one point to forget about my former occupation and get on with my rehabilitation—I began at this point to inquire about this issue of rehabilitation and I was told by the adjuster that I would have to wait for the two-year anniversary and that I should continue to seek the therapy, since my OHIP would take care of that for me—wonderful news to someone who is self-motivated and progressive. At this point I was finding more relief for my pain with the help of a chiropractor and, with the blessing of my doctor, proceeded to do this and found almost instant resistance to payment on the suggestion that OHIP would pay if only I would be satisfied with the services available at the local hospital.

It was at this point that I continued to pursue this issue of rehab through lawyers, MPPs and rehab people, to find that no one could give me a hard and fast answer as to why or when I could access some form of progressive rehabilitation. In effect, I was very much encouraged to become a couch potato for the next two years. I have found no one to date, either in or out of the industry, who can give me any constructive information, let alone factual, regarding rehabilitation. This, in my opinion, is like unto a lottery in many respects.

Please understand that I am sharing with you my personal experiences of the system, and I do not believe that I am alone in my convictions. The industry has proven to me that not only is it resistant to payments but that the delivery of benefits promised is random at best. No, I'm not looking for charity and I never have. In fact, I dislike being dependent on the system for my very existence.

Prior to my injuries I was involved in a career that was very important to me, not just financially but in many of

the same ways that I presume your respective jobs are to you. I feel like I'm begging when, every two months, I have to call Toronto to see where my cheque is, only to talk to a no-name, no-face adjuster who tells me that she has no time to look at or through my file and, "Your cheque is in the mail."

Why must I be subjected to such demeaning treatment when I was not at fault to begin with? I am only asking for what you told me I was entitled to when you proposed this system. I am quite certain that all victims, for the most part, have been handed the proverbial soother in the hopes that we will go away. I ask how many other uninformed, unaware victims have gone on to be brutalized by this system. As a victim of the system, I have been forced to learn the hard way that I must be persistent and assertive to get just a morsel of what was promised to me. I have armed myself with a copy of Bill 68 in an attempt to decipher from it for myself what rights to benefits and rehabilitation there are there for me. You tell us in this bill that there's a lifetime cap of \$500,000 for supplementary medical and rehabilitation and that the proposed change would have no cap. Well, lovely. Who is regulating this? From my personal experience, I am at the good graces of the insurance industry and the whim of the individual adjuster.

I feel like I'm playing "roll the dice" to see who can give me an answer, regardless of the medical documentation, as to who will decide whether or not I can have what I may be entitled to and how much they'll spend. Any exposures that I have had to rehabilitation have come about initially from my own efforts and resourcefulness. The one example that I choose to give you is this. When a doctor, who by the way is whom the insurance company sent me to, documented for that company that I would benefit from a water exercise program, no one moved on it. When I questioned that adjuster about this, I met with the proverbial bureaucratic stone wall. Until I was forced into being assertive with them, nothing was done.

1620

I myself researched and contacted facilities in the area that I live in, and when I was referred to someone with a background dealing in injuries and made mention of this to the adjuster, there was much passing of the buck and the response was, "Well, isn't this service available through the hospital?" Is this the kind of response I should have met with? I think not.

When it was finally agreed upon that I could use this service, I was asked to go ahead and procure this. The policy of that facility is membership, and it is billed annually. This too was agreed upon. Out-of-pocket I paid this fee and, as instructed, presented the bill to my adjuster and was immediately told that the company would not pay for a year in advance but would pay quarterly. I received one quarterly payment at that time and waited an entire year to be reimbursed. It was not paid until I had placed numerous phone calls, written requests, and solicited the advice of a lawyer.

During this process, I was told again in Toronto that she was too busy to look through my file for the original receipts and that I would need to provide her with proof. It

was at this time that I was also reminded just how large my file was. I did not appreciate, nor do I feel that I as an innocent victim deserved, this type of demeaning treatment. This example is not isolated to one incident. It has been repeated many times since August 1990. Must I continually remind the industry that I am not brain-dead? My body does not function the same any more, but my mind still works. Since when, in this democratic country of ours, do we waste such a commodity?

I dislike having to resort to using the system. It is my fervent desire to recuperate to the point that I can return to meaningful employment. When asked why I am not working, I feel it necessary to explain about my lack of mobility and the chronic pain that I live with daily, because, as you can see, on the outside I look okay. A common assumption is that I am being rehabilitated, and it was a promise that victims would have access to rehab. Instead, I spend more time and energy fighting for my rights than I do concentrating on full-time recovery. It was my understanding that my full concentration and energy should be on recovery, with the goal of returning to gainful employment, not an all-out war with the insurance industry. Is this a fair and just system? I have personal knowledge of a victim who went to mother's allowance because she could not cope with this frustrating and degrading system.

I find it necessary to address the lousy and uncertain threshold you have set forth. You make no provisions for the victim with debilitating soft tissue injuries, nor do you address retroactivity of those injured at the beginning of the no-fault system. What are we, human guinea pigs? Your main focus seems to be to decrease claims, at any cost to human suffering, and increase profitability. What is to happen to me at the three-year anniversary, when I am to be reassessed? Your policy tells me that my payments will cease because I will probably fall short of your unforgiving threshold due to my soft tissue injuries, which, I am told, will affect me for the rest of my life. I wish I could push a magic button and exchange my aching body for a new one, but I can't.

My specialist told me on my last visit that I can expect to be in therapy for a long time to come, and to continue with what I'm doing. His comment was, "I know how much you want to go to work, but you only have about two hours in a day at best, and then not on a consistently daily basis." My future is to be decided by an industry which has already demonstrated to me that it does not know what it is doing and which does not view me as human, only another dependent liability. I pray that the powers that be will be having a good day. How long shall I be forced to pay for the actions of another human being who, along with his insurance company, has complete immunity? Am I next in the welfare line? Is it my fault I have no job left to go to?

I am not alone in this dilemma. The underlying assumption that as a victim I will be dealt with fairly is a false one. We are not only the neglected consumers; we are opaque victims, not seen and not heard. People injured in accidents in the early stages of this no-fault nonsense live in a grey zone and have indeed been left largely on their own to determine our own rights and to find our own way

through the rehabilitation systems and to seek reimbursement for our losses. Is this what I deserve for my expensive premiums?

I thank you for allowing me the opportunity to make this presentation. If you have any questions, I'll do my best.

The Chair: Mr Johnson, two minutes.

Mr Johnson: Thank you very much for your presentation.

I think you've made it very clear in your presentation that accident victims have had a difficult time obtaining the justice they deserve under the system. I want to say that you've pointed out your very specific case and very difficult situation that you were involved in: first of all the accident itself and then trying to get redress and trying to get the rehabilitation that you so badly want.

I don't want this to sound like it's just another comment from another politician. However, I want you to know that the government has set up a task force on long-term care and rehabilitation so that people like yourselves and situations like the one you were involved in, we hope, can be eliminated.

This task force wants to examine exactly situations and circumstances like yours in order—well, specifically, in order to establish standards and guidelines so that you won't have to go through this undue delay in trying to get the rehabilitation that you so badly need. It's very evident that you want to get back to work. We all laud you on that point and I hope that through your persistence you can get the rehabilitation you need and indeed do get back to work. It's more of a statement than a question, but I just want you to know that.

Ms Lockyer-Cheney: I appreciate your comments and I am aware of the task force.

Mr Callahan: In looking at your previous work experience, you were obviously a person who was on her way up very seriously and enjoyed what she was doing. Looking at your injuries in relation to what we were given this morning by a gentleman who came before our committee, Mr Nigel Gilby, who's a lawyer, you probably would not reach the threshold of the \$15,000. If you did it would be very close and you'd wind up taking a risk of perhaps having to pay your lawyer's fees as well as the opposing lawyer's fees.

I feel great empathy for you in that you've lost your opportunities economically, obviously. I'm not quite sure in reading your brief whether these are your objections to the present changes under Bill 164 or not.

Ms Lockyer-Cheney: Yes, they are objections. In the preceding summary I have voiced most of those. I do have other areas; however, time just didn't allow for me to get to them all.

Mr Callahan: I think we can appreciate that. When we look at the regulations that have been shown to us, not a lot of people understand how regulations are made. They're made by the cabinet of the government of the day and they really never get to the floor of the Legislature, so they can change them in the blinking of an eye, which I

think adds to the confusion that people in this province will have because of those regulatory changes.

Thank you, Mr Chairman, for those questions.

Mr Tilson: I think we appreciate the victim, which is what you are, coming before this committee and telling us your personal story. The incident appears to deal with OMPP, the existing law before this province, although you obviously, as a result of your unfortunate experience, have become knowledgeable in the current legislation as well and you're probably as much of an expert as the rest of us.

I don't mean to be flippant, but if you were left alone on the previous legislation, this is Left Alone 2 because you're going to be far worse off. If this bill passes and the incidents that you've described occurred under Bill 164, the frustrations that you've had dealing with insurance companies, with legal people, with medical people, will be far worse, if only for the very reason that a lot of people simply don't understand it. It'll take years for courts and advocates, whoever they are, to tell us what all these funny words mean.

I don't know whether you have any thoughts on that. In other words, obviously your demeanour is very bewildered and very frustrated and "Why me?" and I understand that, but looking at Bill 164, having just gone through Bill 68, can you tell us what your thoughts are for Bill 164?

Ms Lockyer-Cheney: How much time do you have?

Mr Tilson: Probably about 30 seconds.

Ms Lockyer-Cheney: I have many areas of concern and I don't like Bill 164 a whole lot better than I liked the previous bill, to be quite honest with you. I find very few positive things there for the victim, and I feel that I'm speaking for a cross-section of victims. It is my personal opinion and the opinion of those few I've spoken to that our main interest is to keep premiums down. Well, if you charged me nothing for my premiums and didn't deliver, it's still not worth it. So I'm concerned about areas of education for the industry at the service levels. I would like to be able to pick up the phone and talk to somebody who knew an answer or who could find one for me.

Mr Tilson: Hopefully the government will listen to your thoughts. Thank you very much.

The Chair: Mr Mancini, you have one little, short one.

Mr Mancini: I have one short question. A lot of the difficulties that you've explained in your brief, and to all the members of the committee, appear to be with the administrative and the follow-through, the policy

implementation portion of the existing legislation. How would you feel about the existing legislation if your phone calls had been answered properly, if there were people at the other end of the line who treated you with a little bit of respect and dignity, who were willing to take your file out and say, "Okay, let's go over it together. We're willing to help you meet with your time lines and with your medical needs and all of those things," and if you weren't forced to fight for the income you were entitled to? How would you feel about the existing legislation if those things had been changed and had worked appropriately?

Ms Lockyer-Cheney: I still have grave concerns, even with those amendments, could they be made, about all areas of that system. It falls so short in dealing with people with soft tissue, with people in other areas. Your descriptives, excuse my expression, are lousy.

Mr Mancini: In the bill, you mean, Bill 68?

Ms Lockyer-Cheney: In the bill. You just can't understand them. People in the insurance industry obviously don't understand them. I am a consumer who has bought and paid for. I'm now a victim—I don't plan to be one again—who can't get to the root of anything, and you've made no provisions for that.

The Chair: Thank you for appearing before this committee today.

Ms Lockyer-Cheney: Thank you.

Mr Lessard: I just want to take a few minutes to say to the committee members who have attended here how grateful we are that you've attended here in the city of Windsor. I hope that everybody has an opportunity to return when they can spend some more time. I know that you're going to be on your way to Ottawa—

Mr Owens: Where's that casino, Lessard?

Mr Lessard: Yes, we'll invite you all back when the casino is up and running.

I want to thank the staff here who assisted in setting everything up as well, and making sure that everything ran smoothly here in Windsor today.

The Chair: I'd like to thank Mr Lessard for the invite back. This committee will be adjourned until 10 o'clock, in Ottawa, tomorrow morning. Some of the members seem to say that the Chair has a hard time telling time. Anyone who's not there at 10 o'clock, I'll have a session later on in the day on how to tell time. Okay? Thank you. Goodbye.

The committee adjourned at 1634.

Also taking part / Autres participants et participantes:

Kormos, Peter (Welland-Thorold ND)

Owens, Stephen, parliamentary assistant to the Minister of Financial Institutions

Clerk pro tem / Greffier par intérim: Carrozza, Franco

Staff / Personnel:

Chan, Rebecca, assistant to the clerk

McNaught, Andrew, research officer, Legislative Research Service

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

- ***Chair / Président:** Hansen, Ron (Lincoln ND)
- Vice-Chair / Vice-Président:** Sutherland, Kimble (Oxford ND)
- Caplan, Elinor (Oriole L)
- Carr, Gary (Oakville South/-Sud PC)
- Christopherson, David (Hamilton Centre ND)
- Jamison, Norm (Norfolk ND)
- Kwinter, Monte (Wilson Heights L)
- Phillips, Gerry (Scarborough-Agincourt L)
- Sterling, Norman W. (Carleton PC)
- *Ward, Brad (Brantford ND)
- Wiseman, Jim (Durham West/-Ouest ND)

*In attendance / présents

Substitutions present / Membres remplaçants présents:

- Callahan, Robert V. (Brampton South/-Sud L) for Mr Phillips
- Eddy, Ron (Brant-Haldimand L) for Mr Kwinter
- Haeck, Christel (St Catharines-Brock ND) for Ms Ward
- Harnick, Charles (Willowdale PC) for Mr Sterling
- Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND) for Mr Christopherson
- Lessard, Wayne (Windsor-Walkerville ND) for Mr Jamison
- Mancini, Remo (Essex South/-Sud L) for Mrs Caplan
- Owens, Stephen (Scarborough Centre ND) for Mr Sutherland
- Tilson, David (Dufferin-Peel PC) for Mr Carr
- Winninger, David (London South/-Sud ND) for Mr Wiseman

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